

12.09.2023
SL-07
Ct.11
(S.R.)

WPA (H) 48 of 2023
Ganesh Ghosh
v.
The State of West Bengal & Ors.

Mr. Khalid Hasan ... for the petitioner.

Mr. Debabrata Chatterjee, APP
Mrs. Amrita Panja Moulick ... for the State.

Affidavit of service filed by the petitioner be kept on record.

The present writ petition has been preferred primarily praying for the following relief: -

‘A writ in the nature of Habeas Corpus directing and commanding the police / state respondents and each of them to take suitable and immediate action to search his son in accordance with law and the principle of natural justice.’

Mr. Hasan learned advocate appearing for the petitioner submits that the petitioner’s son, namely, Biplab Ghosh (in short, Biplab) left his home on 18th February, 2022 at about 7.00 pm but he did not return thereafter. Biplab’s family members frantically searched for him but they could not ascertain Biplab’s whereabouts. Biplab’s girlfriend, namely, Anita Ghosh (in short, Anita) was also contacted by Biplab’s family members and she stated, *inter alia*, that Biplab was last seen with one Sourav Pramanick @ Rana (in short, Rana). Stating such facts, a formal complaint was lodged by the

petitioner and the same was registered as Santipur P.S. Case No.160 of 2022 dated 20th February, 2022 under Section 364 of the Indian Penal Code. Subsequent thereto, proper investigation was not conducted by the police authorities and Biplab was not recovered. Ventilating such grievances the petitioner submitted further representations to the respondent nos.3 and 4 but in vain. Aggrieved thereby, the petitioner was constrained to prefer the present *habeas corpus* petition.

Mr. Hasan submits that Biplab is still missing and it is incumbent upon the police authorities to ascertain his whereabouts and to produce him before this Court.

Per contra Mr. Chatterjee, learned Additional Public Prosecutor appearing for the State respondents submits that the petitioner's complaint was registered as Santipur P.S. Case No.160 of 2022 dated 20th February, 2022 initially under Section 364. Upon investigation Sections 302 and 201 were also added and charge sheet No.431/2022 dated 21st May, 2022 also filed.

He submits that this is not a case of illegal detention. Biplab was abducted and allegedly murdered and upon arriving at such, *prima facie*, finding charge sheet was filed under Sections 364/302/201 keeping the option open to file a supplementary charge sheet.

Drawing our attention to the seizure list and the statement of the witnesses including the confessional

statement of Rana, Mr. Chatterjee submits that Rana abducted Biplab and brought him at Tengridanga on the bank of river Bhagirathi. Thereafter, Rana allegedly murdered Biplab by striking a blow with hammer on his head and threw away his body in the river with the intention to cause disappearance of evidence.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A writ in the nature of *habeas corpus* is a prerogative writ by virtue of which the causes and validity of detention of a person are investigated by a summary procedure.

The basic ingredient of *habeas corpus* petition is illegal detention. There is no material on record to infer that Biplab had been illegally detained. Investigation had disclosed, *prima facie*, that Biplab had been allegedly murdered by the principal accused, who is presently in custody. Upon completion of investigation, charge sheet has already been filed and this Court cannot convert itself into a monitoring agency to supervise such criminal proceeding.

In view thereof, no interference is called for in the present writ petition and the same is, accordingly, disposed of.

Nothing herein shall, however, prevent the

petitioner from initiating appropriate proceedings before any other Court or forum seeking relief, in accordance with law.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)