

05.10.2023
SL-02
Ct.11
(S.R.)

WPA (H) 50 of 2023
Susmita Biswas
v.
The State of West Bengal & Ors.

Mr. Kaushik Gupta
Ms. Srimoyee Mukherjee ... for the petitioner.

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

Mr. Subrata Bhattacharjya
Ms. Shipra Santra ... for the respondent no.5.

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

‘A) A writ in the nature of Habeas Corpus be issued upon the Respondent authorities, directing them, their men, agents, employees, subordinates to trace out and recover the friend of the petitioner, namely Sutapa Mallick, and to produce her before this Hon’ble Court.’

Mr. Gupta, learned advocate appearing for the petitioner submits that the petitioner is a transmasculine person and was having a love relationship with one Sutapa Mallick (in short, Sutapa), who is the daughter of the respondent no.5. On 21st June, 2023, Sutapa’s father came to learn about such relationship of his daughter with the petitioner. Sutapa was abused and assaulted by the villagers upon instruction from the respondent no.5. On 23rd July, 2023, Sutapa managed to run away from her parental house and resided with the petitioner for

about 22 days. On 14th August, 2023, Sutapa was forcibly taken away by her father. Sutapa thereafter contacted the petitioner on 15th August, 2023 as well as on 16th August, 2023 complaining, *inter alia*, that she was being subjected to a medical test without her consent and her family members are trying to implicate the petitioner in a false criminal case.

Mr. Gupta, submits that the respondent no.5 lodged a complaint, which was registered as Burdwan PS Case No.980/23 dated 5th August, 2023 under Section 363/365 IPC alleging, *inter alia*, that the petitioner allured the victim girl for providing her job and that she might be forcibly trafficked for illegal purpose.

He submits that the allegations contained in the complaint are absolutely unfounded and the respondent no.5 had forcibly detained Sutapa at her parental house without her consent. Aggrieved thereby, the petitioner has approached this Court.

Mr. Chatterjee, learned Additional Public Prosecutor appearing for the State submits that in course of investigation in Burdwan PS Case No.980/23, Sutapa was recovered and produced before the learned Chief Judicial Magistrate Purba Burdwan and her statement was recorded under Section 164 of the Code. On 16th August, 2023 Sutapa herself submitted a representation stating, *inter alia*, that she may be allowed to reside at a place as

per her choice. On the basis of such statement and as Sutapa was adult, she was allowed to go and reside at a place of her choice.

Answering our query, Mr. Chatterjee informs that investigation in the said case is still pending and that Sutapa is presently residing with her father at Milikpara, Belkash, Near Durga Mandir, Police Station – Burdwan Sadar, District – Purba Burdwan.

Mr. Chatterjee further submits that the allegations contained in the writ petition are absolutely unfounded and that no complaint had been lodged by the petitioner alleging that Sutapa was forcibly taken away by her father and that she had been forcibly detained at her parental house.

Mr. Bhattacharjya, learned advocate appearing for the respondent no.5 submits that Sutapa is presently residing at her parental house and is undergoing medical treatment as she is suffering from dengue and other ailments. Let the medical documents, as produced, be kept on record.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, no complaint had been lodged by the petitioner alleging that Sutapa had been forcibly detained by her father. Sutapa is residing at her parental house. In connection with Burdwan PS Case No.980/23 dated 5th

August, 2023, she was recovered and was produced by the police authorities before the Chief Judicial Magistrate, Purba Burdwan and on the basis of the representation submitted by Sutapa, who happens to be an adult lady, she was allowed to go and reside at a place of her choice. We do not find any material on record to infer that Sutapa had been illegally detained.

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

Nothing herein will prevent the petitioner from taking appropriate steps before the competent 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.)