

December 6, 2023
AD 4
Ct. No.14
SG

WPA 21370 of 2023

Mangala Ray
vs.
State of West Bengal and others

Mr. Suddhadev Adak
...for the petitioner

Mr. Asish Kumar Guha
Mr. Benazir Ahmed
... for the State

Ms. Tuli Sinha
... for the respondent Nos.3 and 4

Mr. Niladri Sekhar Ghosh
Ms. Sompurna Chatterjee
Mr. Sourav Mondal
Mr. Mainak Ghosal
... for the respondent Nos.8 to 13

During hearing of the application, the case diary was perused and it was found that although the victim was discharged from the hospital, no statement of the victim had been recorded. Upon query made to the investigating officer present in Court through the learned advocate for the State, the investigating officer replies that the victim was unconscious all through.

This is absolutely unacceptable. If the victim was unconscious, he would not have been discharged from the hospital.

Learned advocate for the private respondents had to admit that the victim was not unconscious at the time of discharge.

The investigating officer has not only been able to record any statement of eyewitness apart from the complainant, he has caused loss of valuable evidence in this case by not recording any statement of the victim who was alive for about 25 days after his discharge from the hospital.

Whether it was a deliberate attempt made by the investigating officer not to collect evidence that was easily available is a matter to be looked into by his superior authorities.

It is alleged by the de facto complainant that the accused had attacked and assaulted the deceased with bamboo, iron rod, brick bat, etc. The de facto complainant was an eyewitness to much of such incident. The victim received several injuries on his head, eyes and other parts of the body. It appears from the CT Scan report that the victim suffered multiple fractures with haemorrhagic contusion and subarachnoid haemorrhage with intraventricular haemorrhage and diffuse cerebral oedema. He was alive for sometime and passed away on 26.01.2023. There appears to be some connection between the assault and the death that was resulted in.

The question arises whether if at all a charge-sheet is to be submitted whether the same ought to have been under Section 302 of IPC or merely under Section 304 IPC.

Learned advocate for the private respondents submits that the death of the victim did not have any

direct connection with the alleged assault. Death after 25 days of discharge may not have any connection with the alleged initial assault.

It appears that the matter has been committed to the Sessions Court. Therefore, this Court does not want to interfere with the matter at this stage.

Let the trial court frame appropriate charges after taking all evidence and other materials into consideration.

Learned trial court is requested to decide on the question of framing of charges expeditiously and in accordance with law.

A copy of this order shall be sent to the Superintendent of Police, Hooghly Rural Police District for appropriate action, if any.

Considering the exceedingly poor investigation done by the present investigating officer, he shall not be permitted to investigate any serious matter involving homicide or dacoity or rape at least for a period of two years from this date.

With these observations, the writ petition is disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]

