

29.09.2023
Item No.02
Court No.11
Avijit Mitra

WPA (H) 52 of 2023

In re: An application under Article 226 of the
Constitution of India;

And

Krishnapada Kar & anr.
-versus-
The State of West Bengal & ors.

Mr. Debarshi Brahma,
Mr. Anit Dey

....for the Petitioner

Mr. Debabrata Chatterjee,
Ms. Amrita Panja Moulick

...for the State

This writ petition was preferred primarily praying
for the following relief:

“(a) To issue a writ in the nature of Habeas Corpus directing the respondent authorities to recover and produce the son of the petitioners viz. Shyamal Kumar Kar before the Hon’ble Court forthwith”.

Mr. Brahma, learned advocate appearing for the petitioners submits that the petitioners’ son namely, Syamal Kumar Kar (in short, Shyamal) went missing on and/or from 25th June, 2017. Mr. Brahma contends that the respondent nos. 7 and his associates took the victim to South India on the pretext of giving him a suitable job but surprisingly the victim stopped keeping in touch with the petitioners. The petitioners had been to the State of Karnatak to trace out the victim but in vain. Such fact

was reported to the local police station but police did not take any effective steps to recover the victim.

The petitioners were constrained to file a complaint under Section 156 (3) of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate, Arambagh, Hooghly. Treating the said complaint as an FIR, Pursurah Police Station Case No.156 of 2017 dated 11th October, 2017 was started under Sections 363/365 of the Indian Penal Code but the Investigating Authority did not make any sincere endeavour to recover the victim. Hence, the petitioners have been forced to approach this Court.

Mr. Chatterjee, learned Additional Public Prosecutor appearing for the State submits that the victim went missing from Bangalore and following the incident which occurred in Bangalore a specific case vide Bayadarahalli Police Crime No.0438/2017 dated 10.08.2017 was started. He submits that as per the order passed by the learned Additional Chief Judicial Magistrate, Arambagh, Pursurah Police Station Case No.156 of 2017 dated 11th October, 2017 under Sections 363/365 was transferred to the competent Court of Bangalore. He submits that the investigation and/or inquiry of those cases are being conducted under the supervision of the competent Court of Bangalore. Let the report, as produced by Mr. Chatterjee, is taken on record.

Since one competent Court of Bangalore is in seisin over the matter, this Court in exercise of its jurisdiction cannot usurp the ordinary administration of criminal justice.

In the said conspectus, no further interference is called for in the present *habeas corpus* petition being WPA (H) 52 of 2023 and the same is, accordingly, disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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