

08 08.12.2023
NB Ct. 14

WPA 22653 of 2023

Shaukat Ali
Vs.
The State of West Bengal & Ors.

Mr. Niladri Sekhar Ghosh,
Mr. Sourav Mondal.
...for the petitioner.

Mr. Ansar Mandal,
Mr. Asish Dutta.
...for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

Report filed on behalf of the State is also taken on record.

The petitioner is the de facto complainant/uncle of the victim deceased. At the very inception he had expressed his doubt whether the case was of suicide or murder. In spite of this, instead of Section 302 of the Penal Code only Section 306 of the Penal Code was incorporated in the FIR. No statement of the petitioner has been recorded under Section 164 of the Code. The height of the grill from where the husband claims the victim had committed suicide by hanging is only 5ft. It is physically impossible to commit such suicide from there.

Learned counsel appearing on behalf of the State relies on the report and the case diary and submits as follows. Relevant witnesses have been examined. A statement of the victim has been recorded under Section 164 of the Code. The

investigation is going on. As of now, Section 302 of the Penal Code has already been incorporated in the array of charges. A report in final form would be submitted only after all the materials are collected.

It appears that some steps have been taken during investigation. it shall be open to the Investigating Officer whether to record a statement of the petitioner under Section 164 of the Code or not.

Let the investigation be concluded expeditiously and in accordance with law.

If the petitioner is aggrieved with the outcome of the investigation, he shall be at liberty to file a protest petition.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)