

15 10.10.2023
NB Ct. 14

WPA 23991 of 2023

Najera Bibi

Vs.

The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee,
Mr. Sandipan Das,
Mr. Sayon Banerjee,
Mr. Badrul Karim.

...for the petitioner.

Mr. Tapan Kumar Mukherjee Sr. Adv.,
Mr. Somnath Naskar.

...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.

A copy of the FIR as filed on behalf of petitioner is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. As would be evident from the picture of the victim hanging with a rope from outside a window of the accused, it would be abundantly clear that it was a case of murder and not suicide. In spite of this, a case was registered only under Section 306 of the Penal Code. No statement of the complainant and other witnesses were recorded under Section 164 of the Code and a perfunctory investigation is going on. It also appears that there is a need for a second post-mortem examination of the dead body.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The case was started under Section 306 of the Penal Code because that is what was alleged by the de facto complainant. However, during

investigation, if any materials emerge that a case of murder is made out, proper steps will be taken by the Investigating Agency.

It appears from the FIR that the de facto complainant had made an allegation of abetment of suicide. Therefore, the police cannot be faulted for starting a case under Section 306 of the Penal Code. However, after completion of investigation, if the Investigating Officer finds materials making out a case of Section 302 of the Penal Code, the same may be added.

The Investigating Officer shall also explore the circumstances under which the alleged crime could have been committed vis-a-vis' the question as to whether it would have been possible for the petitioner's son to get up to the place near the window and commit suicide without support of a chair or any other article.

Let the Investigating Officer conclude the investigation expeditiously and in accordance with law.

However, investigation of the case shall be conducted by the said Investigating Officer under the direct supervision of the Zonal Deputy Superintendent of Police, Purba Bardhaman.

With these observations, the writ petition is disposed of.

The respondent police authorities shall also keep a sharp vigil at the locale and ensure that no breach of peace takes place.

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

(Jay Sengupta, J.)

