

29.03.2023
Item No.JP-01
Court No.32
SR

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA (H) 1 of 2023

**Smt. Tanisha Bhattacharjee
- Versus -
State of West Bengal & Ors.**

Mr. Sayan De
Mr. Sayan Kanjilalfor the Petitioner.

Mr. Debabrata Chatterjee, Ld. APP
Mr. Simanta Kabirfor the State.

Affidavit of service filed by the petitioner be kept on record.

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

‘a. A writ in the nature of Habeas Corpus directing the respondent authorities to produce the corpus of missing minor child of the Petitioner either before Your Lordships or before any Court of Law or before the Petitioner or inform the Petitioner in this regard forthwith;’

Mr. De, learned advocate appearing for the petitioner submits that the petitioner, namely, Smt. Tanisha Bhattacharjee (in short, Tanisha) married the respondent no.4, namely, Sri Dipankar Saha (in short, Dipankar) on 7th December, 2014. Tanisha gave birth to a female child on 25th September, 2015. There was a matrimonial discord between the husband and the wife and Tanisha along with

her daughter were constrained to shift to Tanisha's parental house on 2nd March, 2020. Subsequent thereto, the marriage stood dissolved by a decree of mutual divorce on 30th September, 2021. Thereafter, on 9th March, 2022, Dipankar went to Tanisha's parental house and requested her to permit him to take his daughter to school for admission. On good faith, Tanisha allowed her daughter to go with Dipankar. Surprisingly thereafter, the minor child was not returned to Tanisha and the child could not be traced and as such, Tanisha was constrained to lodge a complaint, which was registered as Bhaktinagar Police Station Case No.272/2022 dated 11th March, 2022 under Sections 363/365/344/364/34 of the Indian Penal Code. In the midst thereof, Dipankar filed Act VIII Case being No.52 of 2022 in the Court of the learned District & Sessions Judge, Alipore.

Mr. De further submits that Dipankar is not appearing in the said proceeding and Tanisha is unaware about the whereabouts of her child. The police authorities have also not taken appropriate steps to recover the petitioner's minor daughter. Aggrieved thereby, the petitioner has approached this Court.

Mr. Kabir, learned advocate appearing for the State submits, upon instructions, that in course of investigation it could be ascertained that the petitioner's minor daughter is at present residing with Dipankar at 4, Mayurbhanj Road, First Floor, Police Station – Ekbalpore, Kolkata – 700 023. The investigating officer had also ascertained that the

petitioner's daughter had been admitted in a school, namely, Kidderpore Banga Vidyalaya (Day) located at 44, Ramkamal Street, Kolkata – 700 023 and she is presently studying in the said school.

A guardianship application being Act VIII Case no. 52 of 2022 is pending between the parties and the issue pertaining to custody would be determined in the said proceedings.

The whereabouts of the petitioner's minor daughter had already been ascertained and as such, no further interference is called for in the present application.

The *habeas corpus* petition being WPA (H) 1 of 2023 is, accordingly, disposed of.

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

Urgent Photostat certified copy of the order if applied for, be made over to the parties as expeditiously as possible.

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