

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Jay Sengupta

W.P.A. 578 of 2024

Najera Bibi
Vs.
The State of West Bengal & Others

For the Petitioner	:	Mr. Sandipan Das Mr. Badrul Karim Mr. Suparna Dutta
For the State	:	Mr. Biswabrata Basu Mallick, Ld. AGP. Mr. Tamal Taru Panda
Heard on	:	09.4.2024, 24.4.2024
Judgment on :	:	24.4.2024

The Court:

1. This is an application praying for a direction upon another investigating agency to conduct the investigation in the instant case.
2. 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 the window of the accused, it would be abundantly clear that it was a case of murder and not suicide. In spite of this, the case was registered only under Section 306 of the Indian Penal Code. No statement of the complainant and other witnesses were recorded under Section 164 of Code of Criminal Procedure. A perfunctory

investigation was going on. Possibly there was a need for a second post mortem report. The petitioner approached this Court with his grievances in W.P.A. No. 23991 of 2023. By an order dated 10.10.2023 passed by this Court, it was directed that the Investigating Officer shall also explore the circumstances under which the alleged crime could have been committed vis-à-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 or anyone. This has not been answered by the Investigating Officer and the charge sheet was submitted only under Section 306 of the Penal Code. In fact, local police had been instrumental in unnecessarily harassing the petitioner. A belated F.I.R. was registered after accused had come out on bail alleging that the petitioner had snatched away some articles from them. Repeated efforts were made to threaten and silence the petitioner.

3. Learned counsel appearing on behalf of the State relies on the report submitted earlier and the case diary and submits as follows. The case was started under Section 306 of the Code because that is what was alleged by the de facto complainant. Extensive investigation was done. Post Mortem report was collected and relevant witnesses examined. No case of murder could be made out.

4. It is true that the registration of the F.I.R. under Section 306 of the Code cannot be faulted with as that was the prime allegation made by the informant. However, during investigation there is enough scope for the Investigating Agency to explore all sorts of possibilities. They would obviously need not be confined to the charge mentioned in the F.I.R.

5. In spite of the fact that a clear indication was given by this Court that the Investigating Agency should find out as to how the petitioner the victim would have,

without anyone's help, got up to the place so high near the window and commit suicide. After all, no chair or other article was found lying nearby. In which event, the suspicion that it was a murder becomes strong. This is the crux of the matter which has not been sufficiently dealt with by the Investigating Officer.

6. The investigation has been mechanical and no proper explanation has been provided as to the cause of death, even if one takes into account the post mortem report.

7. In view of the above, the charge sheet submitted by the Investigating Agency is set aside.

8. Let further investigation of the case be conducted by the C.I.D. Investigation shall be concluded expeditiously and in accordance with law and keeping in view the prime issue involved as to how the petitioner could have climbed up so high near the window and commit the suicide by hanging without anyone's help or any external support.

9. With these observations, the writ petition is disposed of.

10. Urgent Photostat certified copy of this order, if applied for be supplied to the parties upon completion of requisite formalities.

(JAY SENGUPTA,J)

SB
Item No. 8