

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 2198 of 2024

Jogendra Mallick

Versus

The State of West Bengal and others

For the petitioner	Mr. Sujit Bhattacharya Mr. Ushananda Jana Mr. Suman Chatterjee
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For the State	Mr. Amitesh Banerjee Mr. Tarak Karan
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Last heard on	14.05.2024
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Judgment on	14.05.2024
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JAY SENGUPTA, J:

This is an application alleging police inaction in investigating a murder case.

Learned counsel representing the petitioner submits that the petitioner is the father of victim deceased and the de facto complainant of the case. The petitioner's son died in mysterious circumstances. It is suspected that he was murdered by his

own friends. He succumbed to his injuries suffered on his head. There are inconsistencies in the versions given by his friends that the incident occurred when the victim fell on the ground from his motorbike. The incident took place at about 12/1 o'clock at night, but the victim was taken to the hospital much later, about at 5 am next morning. The investigation is not being done properly.

Learned senior counsel representing the State relies on the case diary, denies the allegation of police inaction and submits that from the post-mortem report it appears that the cause of death is due to intra cranial haemorrhage associated with haemorrhage manifestations in other organs. There was 150 gm of semi-solid food mixed with blood with smell of alcohol present in the stomach. Viscera report has been obtained and ethanol was found in the same. This is not inconsistent that the statements given by the friends as recorded under Section 164 of the Code. The victim, who was gossiping with his friends while sitting on a motorbike under a bridge, fell down and suffered such injuries. His friends tried to revive him and thereafter took him to hospital. A final report from the post-mortem doctor is awaited.

The viscera report appears to support the findings in the post-mortem examination that there was smell of alcohol in the

contents of the stomach. Statements of the witnesses under Section 164 of the Code have also been recorded.

In view of the above, this does not appear to be a case of police inaction.

However, before the investigating agency concludes the investigation, let them take another opinion about the cause of death and the nature of injuries from a medical expert of a government hospital.

With the aforesaid observations, WPA 2198 of 2024 is disposed of.

Parties shall act on a server copy of this order duly downloaded from the official website of this Court.

(Jay Sengupta, J)