

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

Present: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

W.P.A 21915 of 2024

Reserved on : 03.10.2024
Pronounced on: 08.10.2024

Rejaul Karim

...Petitioner

-Vs-

The Union of India & Ors.

...Respondents

Present:-

Mr. Sabyasachi Chatterjee
Mr. P. Karar
Mr. Akashdeep Mukherjee
Mr. Sayan Banerjee
Mr. B. Karim
Ms. Indrani Roy
Mr. S. Roy

... .. for the petitioner

Mr. Amitesh Banerjee, SSC
Ms. Ipsita Banerjee
Mr. Akash Dutta

... .. for the State

Mr. Milon Mukherjee, Sr. Adv.
Mr. Usof Ali Dewan
Mr. Asif Dewan

... .. for the respondent nos. 14 &15

Mr. Dhiraj Trivedi, DSG
Ms. Amrita Pandey

... .. for the C.B.I.

Rajarshi Bharadwaj, J:

1. Learned Counsel appearing for the petitioner is the father of the deceased, one Tohid Karim, submits that his son was a student at the Jakir Hossain Institute of Pharmacy in Jangipur, Murshidabad, West Bengal herein respondent no. 14. On the evening of August 12, 2024, at around 8:30 p.m., the deceased had a routine conversation with his mother, requesting a gas oven, an umbrella, and some mango pickle to be sent through his father. This conversation, which showed no signs of distress, took place just hours before his untimely demise. On the morning of August 13, 2024, the petitioner, before leaving for work, attempted to contact his son at 8:04 a.m. and 8:06 a.m. but received no response, which was unusual as his son generally returned missed calls. The petitioner made several further attempts to reach his son throughout the day, but none were successful.

2. Concerned about the lack of communication, the petitioner's wife contacted one of their son's roommates, who responded rudely and claimed ignorance of Tohid's whereabouts, further exacerbating their anxiety. Later that day, at around 9 p.m., while the petitioner was en route to the college hostel, the same roommate contacted the deceased's mother, abruptly informing her that their son had died by hanging. The petitioner states that this abrupt and insensitive communication raised immediate suspicion. Upon arriving at the college, the petitioner found his son deceased under suspicious circumstances in his hostel room.

3. The petitioner recalls that a few months prior, when the deceased was newly admitted to the college, he had confided in the petitioner and his wife about incidents of ragging at the institute. He mentioned that seniors had harassed him and other juniors. The petitioner apprehends that these instances of ragging may have played a role in his son's death. Despite the suspicious circumstances surrounding the death, the respondent no. 14 failed

to report the incident to the police or file an FIR, a highly irregular omission for an institution.

4. The petitioner submits that the failure to take action by the college authority raises serious questions about the conduct of the institution, especially given the fact that its owner is an influential MLA of the ruling party. The petitioner submits that this inaction is a deliberate attempt to cover up the incident, obstructing a thorough investigation. On the night of August 13, 2024, the petitioner went to the Raghunathganj Police Station under SP Jangipur Police District to lodge an FIR concerning his son's death. However, the police refused to register the FIR, advising the petitioner to wait for the post-mortem report.

5. On August 19, 2024, the post-mortem report was handed over to the petitioner, but upon reviewing it, he found several inconsistencies and omissions. The petitioner strongly apprehends that the report was incomplete and possibly influenced to obscure the true cause of death. Frustrated by the police's refusal to file an FIR, the petitioner lodged a Zero FIR at English Bazar Police Station on August 17, 2024, under Zero FIR No. 01 of 2024. This action resulted in the registration of Raghunathganj Police Station Case No. 1010 of 2024, but only after the intervention of the Superintendent of Police.

6. The petitioner further contends that the Raghunathganj Police Station's initial refusal to register an FIR is suspicious, particularly given the influence of the MLA being the owner of the college. This refusal, coupled with the contradictory statements made by the deceased's roommates, none of whom have been investigated thoroughly, adds to the petitioner's concern that the investigation is biased and influenced by political pressure. Despite the serious nature of the incident, the police have not arrested any suspects or taken action against individuals providing contradictory statements, which suggests a significant lapse in the investigation.

7. Adding to the petitioner's distress, on August 23, 2024, the Jangipur Police issued a notice under Section 179 Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to one of the petitioner's relatives, requiring them to appear for an investigation, which the petitioner views as harassment. This notice, combined with the lack of arrests or proper investigation, indicates an attempt by the police to intimidate the petitioner's family rather than uncover the truth.

8. The petitioner submits that despite the serious nature of the case, no arrests have been made, and the investigation remains stagnant. The lack of prompt FIR registration, combined with the institution's failure to report the incident, reflects a broader pattern of negligence and possible cover-up. The petitioner has reason to believe that the investigation is being influenced by MLA Jakir Hossain, who has significant political clout in the region. The petitioner fears that this influence is being used to suppress a proper investigation and prevent justice.

9. The petitioner also submits that the police's failure to promptly register an FIR and the subsequent delay in lodging the Unnatural Death (UD) Case No. 161 of 2024, which was not initiated until August 14, 2024, violates statutory obligations under Section 194 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. Additionally, the inquest into the death was conducted at the hospital, not the hostel room where the body was discovered, raising concerns about the integrity of the investigation and the preservation of evidence.

10. The petitioner believes that these procedural lapses and delays in the investigation are deliberate, intended to allow time for tampering with evidence and covering up the true circumstances of his son's death. Despite filing a Zero FIR, the petitioner's attempts to seek justice have been obstructed at every turn, and the involvement of influential individuals has delayed the investigation.

11. In light of these facts, the petitioner submits that the investigation of UD Case No. 161 of 2024 and Raghunathganj Police Station Case No. 1010 of 2024 be transfer to an impartial authority for a thorough investigation. The petitioner also prays for an order directing a second post-mortem examination through exhumation to ascertain the true cause of death. The petitioner believes that only through such independent measures can justice be secured.

12. Mr. Amitesh Banerjee, Learned Senior Standing Counsel appearing for the State, in its report submits that a thorough inquiry has been conducted into the allegations presented in the petition. The State has carefully reviewed the circumstances surrounding the unfortunate death of one Tohid Karim, the petitioner's son, and the related police actions that followed.

13. Upon receiving a telephonic tip on August 13, 2024 at 21:31 hrs, the police authorities immediately responded and reached the scene where the body of the petitioner's son was found lying on the floor in Room C-18 of the respondent no.14. Preliminary investigation indicated that the deceased's roommates and other students had found him hanging in Room C-22, after breaking the door, which was locked from inside. All legal formalities, including securing the scene and documenting the evidence, were conducted, and the body was transferred to Jangipur SD Hospital, where the medical officer declared the petitioner's son brought dead.

14. Further inquest and investigation revealed no external injuries other than a ligature mark on the neck, consistent with hanging. The post-mortem report indicated no signs of external violence, and the initial opinion pointed towards suicide. The investigation continued with extensive examination of witnesses, including the deceased's father herein the petitioner, uncle, college authorities, and his girlfriend, one Samima Khatun. The latter provided context regarding the deceased's prior mental state, mentioning their turbulent relationship, which involved break-ups and reconciliations, and prior suicide threats by the deceased.

15. Regarding the petitioner's allegations of delays in registering the FIR, it is submitted that no complaint was lodged initially at Raghunathganj Police Station by the petitioner, as they were preoccupied with the funeral arrangements and grieving the loss. The FIR was registered once the complaint was filed at English Bazar P.S. The investigation further probed into the possibility of ragging or any kind of harassment. Both witness testimonies and the anti-ragging committee's report confirmed that there was no evidence of ragging or mistreatment of the deceased by fellow students or college staff.

16. The State acknowledges the petitioner's concerns but maintains that all investigative procedures were conducted promptly and in compliance with the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. The officers involved acted responsibly in ensuring that evidence was properly preserved and that the investigation was thorough. The findings of the inquiry indicate no foul play or institutional negligence. However, the investigation remains ongoing to ensure all aspects of the case are fully explored, including awaiting the final forensic and toxicology reports. Therefore, the State submits that all due diligence has been exercised in investigating the matter, and it is committed to following any further directions from the Hon'ble Court.

17. The Learned Senior Counsel appearing for the private respondents no. 14 and 15 concurs with and fully endorses the arguments and contentions advanced by the State, aligning with the legal reasoning and factual representations presented therein, and submits that the same warrants favourable consideration by this Hon'ble Court.

18. Heard the Learned Counsels for the parties at length.

19. The petitioner, father of the deceased Tohid Karim, alleged that his son's death under suspicious circumstances at the Jakir Hossain Institute of Pharmacy was a result of ragging and institutional negligence. The petitioner raised concerns about delays in registering an FIR, lapses in police investigation, and the potential influence of the college owner, an influential

MLA, in obstructing justice. The petitioner requested the transfer of the investigation to an impartial authority and a second post-mortem examination.

20. The State, represented by Learned Senior Standing Counsel, submitted that a thorough investigation had been conducted, which found no evidence of foul play or institutional negligence. It was stated that the initial investigation, post-mortem report, and witness testimonies, pointed towards suicide as the cause of death. The State further contended that there was no evidence of ragging or harassment, and the police followed proper procedure in securing the crime scene, conducting the inquest, and registering the FIR after a delay due to the petitioner's preoccupation with funeral arrangements.

21. This Court found no substantive evidence of harassment of the deceased. It is noted by this Court that although there were delays in registering the FIR and conducting the inquest, these delays were sufficiently explained by the State. Moreover, the inquest was conducted in compliance with statutory obligations, and no tampering with evidence was evident. Significant weight on the post-mortem report, which indicated suicide by hanging. The absence of external injuries or evidence of violence supported this conclusion. The Court found no basis for ordering a second post-mortem, as there was no credible evidence to suggest foul play or tampering with the report.

22. Therefore, this Court holds that the investigation conducted by the police was thorough and unbiased. The petitioner's allegations of political influence and bias in the investigation were not substantiated by any concrete evidence. The procedural delays, though regrettable, did not indicate any malfeasance or cover-up. As the investigation was ongoing, including the awaited forensic and toxicology reports, this Court sees no reason to transfer the case to another investigating authority.

23. The writ petition is dismissed, directing the police authority to continue their investigation and submit report upon conclusion. The Court expressed sympathy for the petitioner's loss but finds no legal grounds to intervene further in the ongoing investigation. In the absence of substantial evidence to support the claims of foul play or institutional negligence, and with the investigation complying with legal procedures, this Court finds no merit in transferring the case or ordering a second post-mortem. Accordingly, the writ petition is dismissed.

24. For the forgoing reasons, WPA 21915 of 2024 is found to be devoid of any merit and is accordingly dismissed.

25. All parties shall act on the server copy of this order duly obtained from the official website of this Court.

(RAJARSHI BHARADWAJ, J)

Kolkata

08 .10.2024

PA (BS)