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02.01.2024
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Ct 14

WPA 24107 of 2023

Surajit Batabyal

-vs-

The State of West Bengal & ors.

Mr. Zubair Ahmed

...for the petitioner

Mr. Amitesh Banerjee, Sr. Adv

Ms. Ipsita Banerjee

...for the State

Mr. Subrata Bhattacharjya

Mr. Indranuj Dutta

Ms. Benazir Sheikh

...for the private respondents

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.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner's mother was admitted in the hospital being the respondent no.7 and was treated by the respondent no.8. After quite a few days of being their undergoing treatment, the authorities did not provide any details to the petitioner about either the progress or the medical bills. When the petitioner objected, the patient was released from the hospital. The very next day, the patient again fell ill and was taken to the same hospital, but was denied admission. The patient died. An FIR was lodged after

obtaining a direction from the learned Magistrate under Section 156 (3) of the Code. The Investigating Agency filed a final report. This was challenged before the learned trial Court. A further investigation was directed. After purported further investigation, a final report was submitted. This was challenged before the learned Magistrate by filing a protest petition. A further reinvestigation was ordered. The same has not been concluded as yet.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. There was no medical negligence whatsoever on the part of the hospital authorities or for that matter any doctor.

Learned senior counsel representing the State relies on the report and submits as follows. An investigation in a case of medical negligence would be dependent on the opinion of medical expert. The Investigating Agency has done exactly the same.

It appears that by an order dated 23.03.2023 passed by the learned ACJM, Arambagh, Hooghly in G.R. Case No. 128 of 2022, a further reinvestigation was directed. This is not permissible in law as 'reinvestigation' can only be directed by a constitutional Court. As a result, the further reinvestigation has to be read as further investigation.

This order is also amenable to the revisional jurisdiction of this Court.

Be that as it may, in the interest of justice, let the

police authorities conclude the further investigation as expeditiously as possible and in accordance with law.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)