

AD. 20.
January 28, 2021.
MNS.

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W. P. A. 104 of 2021
(**Via video conference**)

Bikash Mondal
Vs.
State of West Bengal and others

Mr. Durga Prasad Dutta,
Mr. Kaustav Chandra Das,
Mr. Sumanta Ganguly

... for the petitioner.

Mr. Amitesh Banerjee,
Mr. Joydip Banerjee

...for the respondent-authorities.

The petitioner has levelled serious allegations against the police authorities in this writ petition.

It is alleged that the daughter of the petitioner was arrested by the respondent-authorities around 9 p.m. on December 23, 2020, in contravention of several legal provisions including Sections 41B, 46(4) and 57 of the Code of Criminal Procedure.

It is further alleged that the lady was kept in police custody and produced before the Magistrate only on December 26, 2020.

Learned counsel appearing for the petitioner seeks production of the Close Circuit

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Television (CCTV) footage for the relevant period from 23rd to 25th December, 2020 in order to bring the reality to light.

Affidavit-in-opposition and affidavit-in-reply filed respectively by the parties today be kept on record.

It appears from the affidavit-in-opposition that the respondent-authorities have annexed several documents, including at least three communications from the Bodhghat police, in respect of interrogation of the petitioner's daughter in presence of a lady constable. It appears from the materials annexed and the records maintained with the police, including a G. D. Extract from the Movement's Daily Register of the Kasba Police Station, that the Kasba police assisted the interrogation and subsequent arrest of the lady concerned on the request of the Bodhghat police, in connection with a specific Police Case, bearing No. 203 of 2020, registered with the Bodhghat police under Sections 420, 120B and 306 of the Indian Penal Code.

It is elaborated in the affidavit-in-opposition that the lady was arrested in connection with the investigation by the Bodhghat police and on their request, in presence of her

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father, who is the present petitioner, which even appears from the memo of arrest annexed to the affidavit-in-opposition.

The copy of the memo of arrest, annexed at page- 28 of the affidavit-in-opposition, in fact, indicates that the petitioner himself signed the said memo and the arrest took place on December 25, 2020 at about 10.50 a.m., and not on the night of December 23, 2020, as alleged by the petitioner. The petitioner's daughter, as it appears from the materials on record, was duly produced before the competent magistrate post-arrest.

The signature of the petitioner on the memo of arrest has not been denied in the affidavit-in-reply of the petitioner. Rather, the grievance of the petitioner centers around no copy of the memo of arrest being made over to the petitioner.

Learned counsel for the petitioner cites a judgment of the Supreme Court dated December 2, 2020, rendered in ***Special Leave Petition (Criminal) No. 3543 of 2020 (Paramvir Singh Saini Vs. Baljit Singh and others)***. It was observed by the Supreme Court in the said judgment, *inter alia*, that whenever there is

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information of force being used at police stations resulting in serious injury and/or custodial deaths, it is necessary that persons be free to complain for a redressal of the same, not only to be made to the State Human Rights Commission, but also to Human Rights Courts, which must be set up in each district of every State or Union Territory under Section 30 of the Protection of Human Rights Act, 1993. It was further held in the said judgment that the Commission/Court can then immediately summon CCTV footage in relation to the incident for its safe keeping, which may then be made available to an investigating agency in order to further process the complaint made to it.

Learned counsel for the petitioner has also placed reliance on the observation in the cited report, that, since the directions therein were in furtherance of the fundamental rights of each citizen of India guaranteed under Article 21 of the Constitution of India, and since nothing substantial had been done in this regard for a period of over 2½ years since the first order of the Supreme Court dated April 3, 2018, the executive/administrative/police authorities were to implement the order both in letter and in spirit as soon as possible.

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The said judgment was rendered in respect of implementation of the use of photography and videography in the crime scene by the State/Union Territory Governments and other central agencies, to suggest the possibility of setting up a central server for implementation of videography and for issuance of appropriate directions to ensure that use of videography becomes a reality in a phased manner.

However, the ratio laid down in the said judgment is not relevant for the present purpose, since there is no material on record even to *prima facie* establish that any unnecessary/unlawful force was used on the petitioner's daughter or that she suffered from any injury, let alone serious.

CCTV footage of police stations, although undoubtedly necessary in the event there are specific allegations and *prima facie* material regarding custodial torture, cannot be directed at the drop of a hat, thereby compromising the secrecy of other investigations going on in the concerned police station.

In the present context, the petitioner has feigned ignorance of his daughter being arrested on December 25, 2020, which stand is belied by

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the memo of arrest, which contains the signature of the petitioner himself. Moreover, sufficient material has been annexed to the affidavit-in-opposition to indicate the reasons for the arrest of the petitioner's daughter and even the relevant case number of the police station at Bodhghat, District- Bastar, Chattisgarh, has already been disclosed. Hence, there does not appear to be any ground for apprehension of custodial torture being perpetrated upon the petitioner's daughter.

In the event the petitioner is worried about the fate of his daughter, it is always open for the petitioner to enquire from the appropriate authorities at Bodhghat with reference to the police case, the number of which has already been disclosed in the affidavit-in-opposition as well as in the present order.

However, there is no need to direct CCTV footage to be furnished by the police or, for that matter, for the writ court to interfere in the matter.

W. P. A. 104 of 2021 is thus disposed of with liberty to the petitioner to approach the Bodhghat police station at Bodhghat, District- Bastar, Chattisgarh for further information regarding the petitioner's daughter and the status

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of the police case, in connection with which she was arrested.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

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