

21-02-2022

ct no. 13

sp

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**WPA 3271 of 2022**

**Salem Khan**

**Vs.**

**State of West Bengal and Ors.**

(Through Video Conference)

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.  
Mr. Samim Ahammed,  
Mr. Imteaz Ahammed,  
Ms. Saloni Bhattacharya,  
Ms. Gulsanwara Pervin,  
Mr. Sabyasachi Chatterjee,  
Mr. Kaustav Bagchi,  
Mr. Debayan Ghosh,  
Ms. Priti Kar,  
Ms. Debolina Sarkar,  
Mr. R. Mukherjee,  
Mr. Akashdeep Mukherjee

... for the Petitioner.

Mr. S.N. Mookherjee, Ld. Advocate General,  
Mr. Amitesh Banerjee, Ld. Senior Advocate,  
Mr. Anirban Ray, Ld. Government Pleader,  
Mr. T.M. Siddique,  
Mr. Raja Saha,  
Mr. D. Ghosh  
Mr. Nilotpal Chatterjee

... for the State.

A formal writ petition has been filed before this Court. The writ petition number for the suo motu cognizance on February 21, 2022 shall be allocated to the writ petition filed in Court today, without having to record any AST number.

Mr. Bikash Ranjan Bhattacharya, learned Senior Counsel representing the father of the victim submits that the incident is shocking and

unfortunate. There is little faith in the State police. Hence, exhumation of the body for a second post mortem and the examination of the mobile phone of the victim is being very seriously objected to by his client. Transfer of investigation to an independent outside agency is sought.

Learned Advocate General has submitted that the State is very serious about the investigation. A Special Investigation Team (SIT) comprising of three Senior IPS Officers has been constituted. Two of such persons i.e. Shri Gyanwant Singh, IPS, ADG, West Bengal, Shri Meeraj Khalid, IPS, DIG, (Ops.), West Bengal are officers of the CID, West Bengal. The third person, Shri Dhrubajyoti De, IPS, Joint Commissioner of Police, Barrackpore Police Commissionerate.

The State has kept out, the Amta Police Station as also the entire district police, away from the investigation.

The SIT itself has constituted its own team for the investigation which includes seven persons from different divisions of the CID, West Bengal.

In course of hearing, Mr. Bikash Ranjan Bhattacharya, learned Senior Counsel has agreed that the post mortem and the forensic examination of the mobile phone is crucial for a proper investigation.

This Court is of the view that it would be too premature to opine whether the investigation by the SIT would be appropriate or not.

This Court would like to first evaluate the investigation of the SIT, the adequacy of which can only be determined thereafter. The SIT shall, therefore, proceed with urgency and expedition. It is expected that no stone will be left unturned in course of such investigation which shall be carried out in letter and spirit and by the book.

In so far as the 2<sup>nd</sup> post mortem is concerned, Mr. Bhattacharyya submits that it has been prayed in the writ petition that it should be done under a learned Magistrate. By consent of the parties, the concerned District Judge, 24 Parganas (North). Ms. Rai Chattopadhyay, shall oversee the SIT investigation in general and the second post mortem and examination of the mobile phone and the TI parade in particular.

Let the 2<sup>nd</sup> post mortem be conducted after exhuming of the body and the viscera continued to be preserved by the SIT under the supervision and direction, of the aforesaid District Judge. The mobile phone shall be duly sealed in presence of the representative of the writ petitioner and/or a representative by the I.O. of the SIT and transmitted to the Central Forensic Science

Laboratory at Hyderabad. The Director, Central Forensic Science Laboratory, Hyderabad is requested to expeditiously complete the investigation from all points of reference to the SIT and any other matter that he may find relevant for the purpose of the case. A copy of the meta-data/digital footprint of the entire phone and its contents shall be preserved. For the said purpose a gist of the FIR along with the copy itself shall be sent to CFSL.

The data itself along with an appropriate analysis report shall be provided to the SIT.

The District Judge shall be entitled to nominate any person of the rank of a Magistrate to be present at the time of post mortem. The post mortem and all investigations of all witnesses shall be videographed and copies should be made available to the District Judge.

The report of such post mortem shall be submitted as expeditiously as possible to the SIT. Simultaneously a copy of such report shall also be made available to the counsel for the writ petitioner. All reports from the Central Forensic Science Laboratory, Hyderabad shall also be made available to the District Judge who shall in turn supply copies to the counsel for the writ petitioner. all statements under Sections 161 and 164 and all

documents relating to the investigation shall be made available to the District Judge.

The SIT and the State shall ensure full and adequate protection to all witnesses.

The SIT shall submit a progress report before this Court two weeks hence.

Let this matter stand adjourned and be listed on **March 10, 2022**.

The TI Parade may be conducted and the writ petitioner shall cooperate therein and shall be entitled to keep a representative along with himself during such identification.

All documents to be signed by the writ petitioner shall have to be countersigned by the representative of the writ petitioner.

The concerned District Judge shall be notified of the date and time of such TI Parade and shall be entitled to nominate a representative.

It is expected that the investigation will not be hampered in any way and the media is requested to please bear the same in mind.

**(Rajasekhar Mantha, J.)**