

22.04.2025

Item No.07
Ct. No.35
(Suman)

WPA 5447 of 2025

**Sucharita Das
versus
The State of West Bengal & Ors.**

Mr. Samim Ahammed,
Mr. Arka Maiti,
Mr. Arka Ranjan Bhattacharya,
Ms. Ambiya Khatoon,
Ms, Gulsanwara Pervin,
Ms. Saloni Bhattacharya,
Mr. Danishuddin Abbasi.

... For the Petitioner.

Mr. Kishore Datta, Id. AG,
Mr. Swapan Banerjee, Id, AGP,
Ms. Sumita Shaw,
Mr. Soumen Chatterjee,
Mr. Diptendu Narayan Banerjee.

... For the State-Respondent(s)

The petitioner is a student of Midnapore College, Mathematics Department, and is aggrieved by the conduct of the Police Authorities, particularly with regard to their act and actions. She alleged that on March 03, 2025, at around 9.30 A.M., she was present at the premises of Midnapore College to express her support for a student strike called by the Students' Federation of India (SFI), which according to her, was a peaceful protest against the events of March 01, 2025 relating to incidents which happened at Jadavpur University. It is further stated that while she was engaged in such protests within the college premises, a group of individuals, who are

supporters of Trinamool Congress and/or outsiders unaffiliated with Midnapore College, forcibly entered the campus and, with a premeditated intent to harm her inflicted violent assault upon her.

Additionally, it was stated that these miscreants acted in collusion with police officials present at the scene, who grabbed her, molested her, strangled her with intention to kill her and inflicted severe blows on her head and neck, consequent to which she suffered significant physical injuries. Petitioner further alleged that such incidents happened in front of the uniformed police personnel at whose dictates they were forcibly taken out of the college, being dragged and handed over to the police, who, instead of ensuring her safety, subjected her to further violence and humiliation. It was further alleged that at about 9.30 a.m. in the morning on March 03, 2025, she was forcibly taken in a police vehicle to All Women Police Station, Midnapore, where a number of police officers under the direction and supervision of the Officer-in-Charge, namely one Sathi Barik, physically assaulted her within the police station premises.

Thereafter, the petitioner narrated the incidents which she had to face inside the police

station till she was released/discharged from the police station at about 2.00 a.m. on 04.03.2025. The enclosures to the writ petition include two information, one sent by Ronit Bera, Secretary, SFI Paschim Midnapore District Committee, dated 03rd March 2024, addressed to the Superintendent of Police, Paschim Midnapore District, and another by the petitioner herself on 04th March 2025, addressed to the National Human Rights Commission. There are certain medical documents also enclosed with the writ petition, which are of Midnapore Medical College and Hospital. Although it has been stated in the writ petition that the concerned doctor refused to incorporate the name of the police officers or the involvement of the police officers, who inflicted torture upon her within the premises of the Police Station. As the prayers in the writ petition incorporated amongst others accusation relating to custodial torture accordingly by an order dated 11.03.2025 Mr. Muralidhar Sharma, IGP Training, Swami Vivekananda State Police Academy, was directed to prepare a report on the basis of the CCTV footages along with all the digital materials available of Midnapore All Women Police Station in the background of the accusation made by the present petitioner at page 34 of the writ petition. Consequent to such

direction being passed the report has been submitted by the designated Enquiry Officer.

Mr. Ahammed learned advocate appearing for the petitioner referred to the different paragraphs of the writ petition along with the enclosed documents to emphasize that the petitioner has been subjected to custodial torture being detained in the police station from 9.30 A.M. of 3rd March, 2025 to 2.00 A.M. of 4th March, 2025. Learned advocate submits that the period of detention of 17 hours itself reflects the vindictiveness with which the police authorities acted on a student activist. It was prayed on behalf of the petitioner that the allegations against the Police authorities so far as the torture inflicted upon her should not be taken lightly as supporting medical documents have been enclosed along with complaint/mail which was sent to the National Human Rights Commission as well as the State Human Rights commission. Further according to the petitioner there were complaints regarding the manner in which the petitioner was taken out from the college premises in collusion with the police authorities. There are also allegations against individuals who are members of student organisation with different ideology but associated with the ruling dispensation. Learned

advocate submits that the police authorities were not only biased but being biased they acted vindictively and as such inflicted inhuman torture upon the petitioner which calls for interference by this Court.

In order to fortify his argument, learned advocate relied upon ***Paramvir Singh Saini versus Baljit Singh & Ors.*** reported in ***2023 Live Law (SC) 134***. However, the cited order of the Hon'ble Apex Court do not clarify the subject matter relating to infliction of any custodial torture but restrict itself to the CCTV issue as a part of continuous directions passed in connection with the said case. Reliance was also placed on ***Vijay Pal Yadav versus Mamta Singh & Ors. Special Leave to Appeal (C) No(s). 20330/2023*** and attention of the Court was drawn to paragraphs 5,7,11 & 15 which are as follows:

“5. Having heard learned counsel for the parties and having perused the materials placed on record, we find that there appears to be evident high-handedness on the part of the police in this case. Even if a person may be a ‘criminal’, the law requires that he be treated in accordance therewith. Even a ‘criminal’, under the law of our land, enjoys certain

safeguards in order to ensure protection of his person and dignity. In this case, the petitioner, when picked up by the police, was at best an accused. It is possible to state that a common man can be expected to exceed his limits (whereafter appropriate action in law shall ensue), but not the police.

7. However, the concerned police officers are cautioned and warned to be careful in future. The Director General is also directed to ensure that such type of occurrences do not recur and there should be zero-tolerance on behalf of the senior officer(s) with regard to any alleged transgression of authority by any subordinate officer(s). The police is a very vital part of the State apparatus and has a direct bearing on the safety and security of the society at large and individuals in particular. The need, therefore, for maintaining the confidence of individuals and society-at-large in the police is paramount.

11. We are confident that the Director General of Police has been appropriately sensitized and expect that transgressions of the nature alleged herein would not

happen again. Failing which, as and when the same is brought to our notice, a very strict view shall be taken, and coercive measures shall also follow against the errant personnel.

15. Before parting, we reproduce certain observations from Somnath vs. State of Maharashtra, 2023 SCC OnLine SC 338:-
‘24. It is sad that even today, this Court is forced to restate the principles and directions in D K Basu (supra). Before D K Basu (supra), this Court had expressed its concern as to how best to safeguard the dignity of the individual and balance the same with interests of the State or investigative agency in Prem Shankar Shukla v Delhi Administration , (1980) 3 SCC 526. In Bhim Singh, MLA v State of Jammu and Kashmir , (1985) 4 SCC 677, this Court noted that police officers are to exhibit greatest regard for personal liberty of citizens and restated the sentiment in Sunil Gupta v State of Madhya Pradesh , (1990) 3 SCC 119. The scenario in Delhi Judicial Service Association v State of Gujarat , (1991) 4 SCC 406 prompted this Court to come down heavily on excess use of force by

the police. As such, there will be a general direction to the police forces in all States and Union Territories as also all agencies endowed with the power of arrest and custody to 5 scrupulously adhere to all Constitutional and statutory safeguards and the additional guidelines laid down by this Court when a person is arrested by them and/or remanded to their custody.'

Learned Advocate General appearing on behalf of the State has controverted the accusations made against the police authorities and emphasized that the allegations made in the writ petition are afterthought, embellished, inconsistent and lacks factual foundation to be acted upon by a Court of law. Attention of the Court was drawn to the specific paragraphs of the writ petition and the same was compared with the annexures. Thereafter it was submitted that the pleadings in the writ petition are completely different from the annexures to the writ petition which were addressed to the Superintendent of Police Paschim Midnapore, by one Ronit Bera, Secretary, SFI Paschim Midnapore District Committee, as also the informations furnished by the present petitioner to the National Human Rights Commission and the State Human Rights

Commission. Additionally the medical prescription of the Midnapore Medical College & Hospital do not reflect any injury and the medicines prescribed are too general in nature for ascertaining whether same was advised for any infliction of injury. It was further contended that the allegations of the petitioner are frivolous, vexatious and if any action is taken on such accusation the same would affect the moral of the police authority. On issues relating to law, Learned Advocate General submitted that the prayers advanced in the writ petition are beyond the scope for consideration of this Court as a writ petition praying for mandamus in respect of registration of FIR is not maintainable; mere bald allegations do not attract any offences of police atrocity when an alternative remedy is available for the purpose of compensation in the Civil Court, relief under public law remedy cannot be invoked; further the accusations are not of such magnitude that it should hurt conscience of the Court. In order to fortify his argument learned Advocate General relied upon the judgment of ***Bharat Singh & Ors. versus State of Haryana & Ors.*** reported in ***(1988) 4 SCC 534***, attention of the Court was drawn to paragraphs 13 of the said judgment in order to emphasize that the writ petitioner must plead and prove such facts by way of evidence which must appear from the writ petition itself. The

relevant part of the paragraph 13 as relied upon is as follows:

“13. In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the court will not entertain the point. In this context, it will not be out of place to point out that in this regard there is a distinction between a pleading under the Code of Civil Procedure and a writ petition or a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it. So, the point that has been raised before us by the appellants is not

entertainable. But, in spite of that, we have entertained it to show that it is devoid of any merit.”

Reliance was also placed by the State on ***Rajasthan Pradesh Vaidya Samiti versus Union of India reported in (2010) 12 SCC 609***, wherein the principles set out in **Bharat Singh** (surpra) is reiterated.

Learned Advocate General also referred to ***Indian Young Lawyers Assn. (Sabarimala Temple-5J.) v. State of Kerala, (2019) 11 SCC 1*** and referred to paragraph 199 which is as follows:

199. *A fervent plea was made by some of the counsel for the respondents that the Court should not decide this case without any evidence being led on both sides. Evidence is very much there, in the form of the writ petition and the affidavits that have been filed in the writ petition, both by the petitioners as well as by the Board, and by the Thanthri's affidavit referred to supra. It must not be forgotten that a writ petition filed under either Article 32 or Article 226 is itself not merely a pleading, but also evidence in the form of affidavits that are sworn.”*

On behalf of the State relevant records were placed under the covering letter of the Deputy Superintendent of Police (Administration) Paschim Midnapore which contained the Memo of arrest, bail bond, personal release bond and the general diary entries, as also the All Arrest Register along with the Hazat Register. Two downloaded copies of the CCTV footage along with the CCTV log of Sucharita Das available at All Women Police Station, Midnapore on 3rd and 4th March, 2025 was also relied. At this stage it would be relevant to State that by an order dated 11.03.2025 Mr. Muralidhar Sharma, IGP Training, Swami Vivekananda State Police Academy, was directed by this Court to prepare a report on the basis of the CCTV footages along with all the digital materials available at Midnapore All Women Police Station, particularly in the background of the accusation made by the petitioner which was enclosed at page 34 of the writ petition.

The report dated 24.03.2025 submitted by the Inspector General of Police reflects that there are 4 CCTV cameras installed and are in working condition which are located at the entrance, inside lock-up, covering area surrounding duty officer's desk and covering women help desk and corridor leading to Lady Constable barrack, malkhana and the lock-up (known as Verandah

CCTV). It was also recorded that no CCTV camera was inside any room except the lock-up room. Further, entrances of all other rooms are covered by the CCTV, however entrances of investigating officer's room, receipt and despatch and the staff room are not under CCTV coverage. It is reflected in the report that the petitioner was in the police station for 17 hours 20 minutes, however she was under CCTV coverage for 13 hours 28 minutes i.e. for 3 hours 52 minutes she was out of CCTV coverage. A tabular representation has been made in the report in respect of time periods during which the petitioner was seen under the CCTV coverage. Although there is a time lag shown in the CCTV camera for 24 minutes, however, the petitioner complains that she was forced in the police vehicle at around 9.30 am and she was there at the police station from about 10:00 am on 3rd March 2025 to 2:00 am on 4th March 2025.

The report also reflects that at about 8:57 am to 8.58 am, LC 2645 Kuheli Saha of WINNER Team was seen approaching the petitioner Sucharita Das and gesturing her to get up and come along with her. As the petitioner started walking, the Lady Constable was seen smacking on her head and pushing her once. Both of them were seen heading towards the investigating

officer's room and receipt /despatch room and then they were out of CCTV coverage. A photograph in relation to the said police officer smacking and pushing the petitioner has been enclosed. The photograph however reflects that the lady constable Kuheli Saha was holding the tuft of hair or grabbing fistful hair of Sucharita Das and pushing her.

Thus, the innocence claimed by the police authority before this Court is not acceptable at this stage of initiation of the case, in the background that the petitioner was out of the CCTV coverage for about 3 hours 52 minutes. So the issue of torture as alleged receives some corroboration in respect of the accusations made by the petitioner in respect of the act and actions of the police authorities which relate to violation of human dignity, custodial torture and custodial violence.

It is a settled position of law that custodial torture is a crime against humanity and directly infringes and violates Article 21 of the Constitution of India. According to this Court, an overall investigation is required in respect of the incidents complained of by the petitioner for advancement of human dignity and mental welfare, particularly of the present petitioner.

In light of the observations made above, a thorough investigation is required as the incidents complained of makes out an exceptional circumstance for interference by this Court.

Such Report was received by this Court on 25.03.2025.

A comparison was made between the CCTV log of Sucharita Das at All Women Police Station, Midnapore on 3th and 4th March, 2025 which was produced on behalf of the State and under the covering letter of the Deputy Superintendent of Police (Administration) Paschim Midnapore, with that of Shri Muralidhar Sharma, IGP Training, Swami Vivekananda State Police Academy and prima facie it has been found that the report of the Deputy Superintendent of Police (Administration) Paschim Midnapore is a convenient representation made before this Court which is far from revealing the truth. In the report prepared by the Inspector General of Police it is reflected that the Lady constable namely Kuheli Saha of WINNER Team making gesture, smacking on the head of the petitioner and pushing her at about 8.57 AM to 8.58 AM, on the contrary in respect of the same time period the report of Deputy Superintendent of Police do not reflect the said fact. Further the petitioner was found to be out of coverage for 3

hours 52 minutes. Considering the records placed by the District police authorities, I am of the view that the same do not inspire confidence and in the alternative corroborate the accusation to some extent made by the petitioner against the police authorities. Needles to state that the enquiry was directed to be made by this Court only on the basis of CCTV footages and the digital materials available at All Women Police Station. The report of the Inspector General of Police also do state regarding the availability of CCTV cameras which prima facie do not adhere to the guidelines set out by the Hon'ble Supreme Court.

At this stage it would be relevant to refer to The Protection of Human Rights Act 1993. Section 2d of the said Act defines:

“human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international Conventions and enforceable by courts in India.”

Human Rights Courts are referred in Section 30 of The Protection of Human Rights Act 1993 –

“30. Human Rights Courts. —For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the

High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences:

Provided that nothing in this section shall apply if —

(a) a Court of Session is already specified as a special Court; or

(b) a special Court is already constituted, for such offences under any other law for the time being in force.”

In Paramvir Singh Saini versus Baljit Singh & Ors. reported in (2021) 1 SCC 184 paragraph 18 holds that:

“18. *Whenever there is 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. Such complaints may not only be made to the State Human Rights Commission, which is then to utilise its powers, more particularly under Sections 17 and 18 of the Protection of Human Rights Act, 1993, for redressal of such complaints, but also to Human Rights Courts, which must then be set up in each district of every State/Union Territory under Section 30 of the aforesaid Act. The Commission/Court can then immediately summon CCTV camera 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.”

Thus for human rights violation the Hon’ble Supreme Court has permitted information to be furnished by persons directly to the Human Rights Courts established under Section 30 of the Protection of Human Rights Act 1993.

The State of West Bengal by a notification dated 25th July, 2011 published in the Gazette notification dated September 06, 2011 designated the Human Rights Court in each and every district. So far as the district of Paschim Midnapore is concerned the learned Sessions Judge, Paschim Midnapore is the Human Rights Court.

In view of the nature of anomaly observed in the report of Deputy Superintendent of Police (Administration) Paschim Midnapore with that of the Inspector General of Police and the directions passed in ***Paramvir Singh Saini*** (*supra*), I direct that the email which has been sent to the National Human Rights Commission and the State Human Rights Commissions in page 34 and 35 of the writ petition, be treated as the complaint in respect of the FIR to be registered submitted before the Learned Sessions Judge, Paschim Midnapore under the provision of The Protection of Human Rights Act 1993.

As in this case already an enquiry has been conducted by the IGP Training, Swami Vivekananda State Police Academy. I direct SIT to be formed under Mr. Muralidhar Sharma, IGP Training, Swami Vivekananda State Police Academy with officer of his choice who would carry out the investigation by assessing the nature of the offence be it cognizable or non-cognizable offence. In case the offence is found to be non-cognizable necessary permission be sought for from the Learned Sessions Judge, Pashim Midnapore (Human Rights Court). The learned Sessions Judge, Pashim Midnapore will act as a Magistrate in such case and pass direction in the nature of Section 174 of the BNSS.

The said Court would act as if it was special Court/Original Court according to the nature of offence complained of during the investigation as also at the time of submission of the charge-sheet and the consequent trial and pass necessary directions as required by the investigating agency or the prosecution.

In view of the direction so passed upon the Inspector General of Police it is directed that the logistic support be provided to the Inspector General of Police or the SIT by the Home Secretary, Government of West Bengal.

So far as the other issues prayed for in the writ petition are concerned the same will be considered after exchange of affidavit between the parties. Accordingly state will file their Affidavit-in-Opposition by 6 weeks, the petitioner will file their Affidavit-in-Reply within 2 weeks thereafter.

List the writ petition in the monthly list of June 2025.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)

Later:

Today, when the order is being passed, affidavit-in-opposition has been filed on behalf of the Respondent No. 5 to 7. Let the same be kept with the record. Affidavit-in-reply, if any, be filed within two weeks as directed above.

(Tirthankar Ghosh, J.)