

19-05-2022

ct no. 13

Sl. 18

sp

**WPA 9138 of 2022**

Smt. Kalabati Mondal & Anr.

**-Versus-**

Union of India & Ors.

**Mr. Asok Kumar Chakrabarti, ld. Sr. Adv.  
Mr. Debapriya Samanta,  
Mr. Rajendra Banerjee,  
Mr. A. Dasgupta,  
Mr. Sujit Bhunia,  
Ms. Susmita Saha Dutta,  
Mr. Anindya Sundar Das,  
Mr. Arka Bhattacharyay,  
Mr. Mansaram Mondal,  
Mr. Raj Kumar Sain,  
Mr. Narayan Mondal,  
Mr. Raja Adhikari**

**...for the petitioners**

**Mr. Dhiraj Trivedi,  
Mr. Somnath Adhikari**

**...for the respondent nos. 1, 4 and 5**

**Mr. Debasish Tandon,  
Mr. Bhaskar Prosad Banerjee,  
Mr. P. Baidya**

**....for the respondent no.2**

**Mr. Billwadal Bhattacharyya, ld. A.S.G.  
Mr. Kallol Mondal**

**...for the CBI**

**Sk. Md. Galib, ld. Sr. Govt. Pleader  
Ms. Subhra Nag**

**...for the State**

The petitioners are two sisters and the respective husbands are the two brothers. The husbands worked for a political party that had lost recent assembly elections. The petitioners complained to the Mothabari Police Station and subsequently to the Kaliachak Police Station that

their husbands were missing since after November 24, 2021. It is stated that one of such complaint was received by the concerned Police Stations and was torn up by a civic volunteer thereat. The said civic volunteer also informed the petitioners that their husbands have converted to islam. A complaint has thereafter been addressed to the Superintendent of Police, Malda, on December 8, 2021. The S.P., Malda also did not take any steps. The petitioners, thereafter, complained with the Chairman, National Human Rights Commission and the other respondents herein.

Counsel for the State submits a report, in the form of instructions addressed by the I/C, Kaliachak Police Station dated May 18, 2022 to State Advocate. The same is taken on record and a copy has been made available to the counsel for the petitioners.

It is submitted by Mr. Md. Galib, learned counsel for the State that in view of family disputes, the husbands of the petitioners have left them and are presently residing at Pratappur, Malda. The said two husbands, converted themselves to Islam voluntarily to Islam. They refused to return back to their residences.

It is also submitted that the said husbands after being traced out were produced before the SDO.

Mr. Galib further submits that on a complaint filed by the husband of the petitioner no.2 an FIR was registered and a charge sheet being Kaliachak PS Charge Sheet No. 528 of 2022 dated 31.03.2022, under Sections 363 and 365 of the IPC has been filed. In the said case where the petitioner no.1 is an accused, the husbands, Gouranga Mondal now known as Gousal Azam and Buddhu Mondal now known as Md. Ibrahim Sk, have deposed under Section 164 of the Cr. P.C. that they have voluntarily converted to the Islam. Counsel for the petitioners submit that the said the said complaint, FIR and charge sheet are wholly suspicious. The said statements, if any, of the husband is mysterious and cannot be countenanced.

Affidavits sworn before a notary public by the said husbands dated 27<sup>th</sup> October, 2021 and 23<sup>rd</sup> November, 2021, have been produced by the State. It is not clear as to why the said affidavits have been affirmed and for what purpose.

The petitioners have alleged that their husbands have been forced to convert to Islam by threat intimidation and/or under influence of drugs.

It is also alleged that the forced conversion is a part of a punishment for supporting a rival political party.

It is surprising to note that despite receipt of complaints, the IC, Kaliachak PS has not registered FIRs and the Superintendent of Police, Malda has not ordered any steps, as were required to be taken by the Kaliachak Police Station and the Mothabari Police Station, in terms of the decision of the Hon'ble Supreme Court in the case of ***Lalita Kumari vs Govt. Of U.P. & Ors*** reported in ***(2014) 2 SCC 1***.

Since the NIA and the CBI are the party respondents to the instant proceeding, appropriate inputs may be given from their side as regards the allegations made in the writ petition. The other allegation of random forcible conversion, cross border infiltration, threats and intimidation, inter alia, by accumulation and storage of huge quantities of arms and ammunition and counterfeit currency may also be addressed. The inputs may be given in the form of report by way of affidavit. The Superintendent of Police, Malda, shall extend necessary cooperation to the NIA and the CBI in this regard.

The aforesaid allegations may not be directly in issue to the claim of the writ petitioners but appear vitally linked to the allegations of abduction and forcible conversion of the petitioners' husbands.

Let this matter stand adjourned and be listed on **June 21, 2022**, for further consideration.

The SP, Malda shall independently submit a detail report by way of affidavit, on the adjourned date on the allegations of the petitioners, the steps taken by the police, any preliminary enquiry report or any other vital information that will be necessary for the determination of the issues in the writ petition. A detailed chronology of events before and after receipt of complaints from the petitioners may also be set out by the SP.

Since the petitioners apprehend serious threat to their life and limb, the Superintendent of Police, Malda, shall immediately upon receipt of a copy of this order, review the security of the petitioners and take immediate measures.

Copy of the report filed by the Kaliachak Police Station dated 18.05.2022, addressed to the learned State Advocate, has been handed over to the counsel for the State.

List the matter accordingly.

**(Rajasekhar Mantha, J.)**