

15.7.2022
Court No. 19
Item no.117
sn

WPA No. 11566 of 2022

Atasi Chakraborty (Majumdar) & Ors.
Vs.
The State of West Bengal & ors.

Mr. Shibaji Kumar Das ...for the petitioner

Mr. Bhaskar Prasad Vaisya
Mr. Mrinal Kanti Ghosh ..for the State

The Court is not satisfied with the progress in the investigation.

The writ petitioners are some of the members of the Kalyani Bar Association. They filed a complaint that a pig let which had been rescued and brought up by them, was forcefully taken away by some miscreants. The pig stayed in the court compound.

It is alleged that on March 25, 2022 at about 5-40 hours, four unknown persons entered the Court premises in a swift desire and forcefully took away the animal.

It appears that the entire incident was videographed in a mobile phone by a security guard and forwarded to the police. It is urged that the police authorities registered the case under Section 379 of the Indian Penal Code vide Kalyani Police Station Case No. 128 of 2022 dated April 2, 2022, under Section 379 of the Indian Penal Code. It is

further urged that forceful removal of the animal from its familiar surroundings and from the custody of the persons who looked after it, amounted to cruelty. The provisions of Prevention of Cruelty to Animals Act, 1960 (PCA Act) should have been incorporated in the FIR.

Prima facie, this Court finds substance in the contentions of the petitioner. The police authorities ought to have conducted the enquiry with more seriousness. Although, the statements of the security guards were recorded under Section 161 of the Code of Criminal Procedure, whether attempts were made to track down the accused persons, are not reflected from the report. From the photographs clicked by the security guards, the identity of the miscreants could have been ascertained.

The paramount consideration in this investigation should be to protect the interest of the animal, apart from protection/security of court compound. Well being of animals has been statutorily recognized. The right to get protection from unnecessary pain or suffering, is a right guaranteed to the animals under Section 3 and Section 11 of the PCA Act read with Article 51- A(g) and (h) of the Constitution of India.

The Hon'ble Apex Court observed in *Animal Welfare Board of India v. A. Nagaraja*, reported in [\(2014\) 7 SCC 547](#), that freedom from fear and distress are recognized as a right in case of animals. Thus when the pig was forcefully removed from its surrounding by unknown persons, the rights guaranteed, have been violated.

Under such circumstances, this Court is of the view that the Superintendent of Police, Ranaghat Police District, shall supervise the investigation henceforth and take necessary steps in this regard. What has to be borne in mind is that the society has to protect the animals, from cruelty. It is a fundamental duty. This is not a case that the civic body had removed the animal, for maintenance of hygiene etc.

The other aspect which has troubled the Court is that unknown persons had entered into the court compound and had taken away the animal, without any resistance. The security of the court complex is also an issue, which has to be looked into.

The police authorities shall keep a strict vigil in order to ensure that similar incidents are not repeated in future.

This writ petition is disposed of.

There will be, however, no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)