

THE HIGH COURT OF TRIPURA
AGARTALA

Crl. Petn. No.10 of 2015

Smt. Kalpana Noatia,
 daughter of Kamalila Noatia,
 resident of Malancha Nibhas, A.G. Quarter,
 P.O. Agartala,
 P.S. New Capital Complex,
 District – West Tripura

..... **Petitioner**

– Vs –

1. The State of Tripura,
 represented by its Secretary-cum-Commissioner,
 to the Department of Home, Government of Tripura,
 P.O. Kunjaban, P.S. New Capital Complex,
 District – West Tripura
2. The Superintendent of Police,
 West Tripura District,
 Police Head Quarters,
 P.O. Agartala,
 P.S. West Agartala,
 District – West Tripura
3. The Officer-in-Charge,
 West Agartala Women Police Station,
 P.O. Agartala, P.S. West Agartala,
 District – West Tripura
4. Sri Ashin Dayal Jamatia,
 son of Anil Ch. Jamatia,
 resident of Dewanbari,
 P.O. Pitra Bazar,
 P.S. Killa, Udaipur,
 District – Gomati, Tripura
 At present Chattisgarh, serving in Indian Oil Corporation Ltd.,
 Abanti Vihar, Sector-1, Raipur, Chhattisgarh-492006.

.....**Respondent**

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. A. Bhowmik, Advocate
 For the respondents : Mr. A. Ghosh, Public Prosecutor
 Date of hearing and delivery : **24.04.2015**
 Of judgment & order
 Whether fit for reporting : **NO**

JUDGMENT & ORDER (ORAL)

Heard Mr. A. Bhowmik, learned counsel appearing for the petitioner as well as Mr. A. Ghosh, learned Public Prosecutor appearing for the State.

02. This is a petition filed under Section 482 of the Cr.P.C. for issuing direction on the State to properly investigate the West Agartala Women PS Case No.2015 WAW007 under Section 448/376(1)/417 of the IPC.

03. It has been asserted by the petitioner that even after lodging of the complaint disclosing commission of rape on her on false promise of marriage, the police did not take step to arrest the accused person or investigate the case seriously. It has been asserted in the para-10 of the petition as under:

"That the Petitioner further states that after lodging of the FIR the police did not take any step to conduct the medical examination of the Petitioner rather the police made the Petitioner sign some papers that the Petitioner is not willing to subject herself to medical examination. The Petitioner vehemently states that the Police did not take any step for conducting medical examination of the Petitioner rather the Petitioner was made to sign some papers that the Petitioner is not willing to subject herself to medical examination."

In this regard the petitioner has further asserted that having confronted with such circumstances she made one representation on 16.03.2015 to the Superintendent of Police, West Tripura District, the respondent No.2 herein. Even thereafter no positive action has been registered.

04. By the order dated 23.04.2015, Mr. Ghosh, learned PP had been requested by this Court to produce the case diary. In compliance thereof, Mr. Ghosh, learned PP has produced the case diary where the statement recorded by one of the Assistant Professors of Department of Forensic Medicines and Toxicology, AGMC & Hospital, Agartala is found and the said statement has been recorded in the format of the Department of Forensic Medicines and Toxicology, AGMC & Hospital, Agartala. Substantial part of the said format is printed. Under the heading 'particulars of sexual assault case' the statement of the petitioner who is the victim of the alleged offence has been recorded in presence of her mother namely Arati Noatia. As this Court is not inclined to disclose the name of the petitioner her name is being withheld. The statement, except the name of the petitioner, runs as under:

"Today on 30.01.2015 at about 1.55 p.m. I have been produced before the Forensic Medicines and Toxicology Department for medical examination by the police for ascertaining any rape has been committed on me but I declined to give consent for such medical examination."

Translated verbatim from the vernacular as recorded by Dr. Pranab Choudhury, Assistant Professor of Department of Forensic Medicines and toxicology, AGMC Hospital, Agartala.

05. After having gone through the said statement, it appears that what the petitioner has stated in the para-10 of the petition is absolutely incorrect. Thus, a deliberate attempt to mislead this Court has surfaced.

06. Having regard to the sensitivity of the complaint and the age of the petitioner, this Court has to take a lenient view but this

Court shall not entertain such petition and accordingly this petition is dismissed. However, there shall be no order as to costs.

07. Before parting with the records, it is observed that if the petitioner is inclined to get herself medically examined even at such belated stage she may approach the Superintendent of Police, West Tripura District. The Superintendent of Police, West Tripura District having been approached thus, may take necessary action in the interest of the investigation. Case diary so produced is returned.

A copy of this order be furnished to Mr. A. Ghosh, learned PP in the course of the day.

JUDGE