

AD. 24.
February 22, 2021.
MNS.

W. P. A. 3784 of 2021
(**Via video conference**)

Kartick Mandi and another
Vs.
The State of West Bengal and others

Mr. Suryanil Das,
Mr. Ramij Munshi

... for the petitioners.

Mr. Sirsanya Bandopadhyay

...for the respondent-authorities.

Affidavit-of-service filed in Court today be
taken on record.

The petitioners allege that despite the petitioners having been ostracized and socially humiliated by people of the neighbourhood of their original habitat on the ground that the petitioner no. 2 practices witchcraft, the police authorities have not taken proper steps on such complaint. Although the complaint of the petitioner no. 1, the husband of petitioner no. 2, was accepted and a First Information Report was registered thereon, no complaint was accepted from the petitioner no. 2, which, the petitioners apprehend, might weaken the investigation and/or the criminal trial of the matter.

It is further submitted that the petitioners were brutally assaulted and the petitioner no. 2 and her daughter molested and driven out from their village and are having to reside elsewhere at the present juncture. Unless police protection is given, it is submitted, it would not be possible for the petitioners to return to their home at the village- Sahapur.

Learned counsel appearing for the respondent-authorities submits that not only was a First Information Report registered on the specific complaints of petitioner no. 1, also pertaining to alleged criminal acts perpetrated against petitioner no. 2, but the investigation in that regard has been completed, culminating in a charge sheet having been filed. It is argued that there is no mandate in law that the victim herself has to lodge the complaint. Moreover, it is argued that several FIRs cannot be lodged for the same offence, particularly after filing of the chargesheet. As such, the investigation on the allegations made by the petitioner no. 1 suffice in that regard.

Learned counsel also points out that the petitioners' prayer for compensation can be sufficiently taken care of by the National Human

Rights Commission, which has already been approached by the petitioners.

As regards the return of the petitioners to their village and the necessity of police protection for such return, learned counsel for the respondent-authorities argues that the petitioners never approached the appropriate police authorities but gave representations before the District Magistrate and other authorities, thereby giving no scope to the local police to assist the petitioners in that regard.

Be that as it may, it is unfortunate if the petitioners' allegations are correct regarding the petitioner no. 2 being socially ostracized and isolated even in modern times on the ground of alleged practice of witchcraft.

Even without going into the merits of such allegations, it appears that the police have already filed charge sheet on the First Information Report registered on the complaint of the first petitioner, the husband of the second petitioner. There was no bar for the petitioner no. 1 to make all relevant allegations in such complaint regarding the atrocities allegedly perpetrated against petitioner no. 2 as well. That apart, the petitioners are always at liberty to

seek re-investigation and/or agitate before the appropriate Magistrate as regards the proper provisions of law having not been clubbed for the purpose of the investigation.

As regards police protection, the petitioners ought to be given liberty to approach the police, on which the police ought to render necessary assistance.

Since counsel for the petitioners does not agitate the question of compensation, it is not necessary to go into such question at the present juncture.

W. P. A. 3784 of 2021 is disposed of by granting liberty to the petitioners to approach respondent no. 3 in the event the petitioners face any obstruction and/or harassment in returning to their home at Sahapur. If so approached, the respondent no. 3 shall render all assistance to the petitioners for their safety and security in such return.

Regarding the allegations levelled by the petitioners about the insufficiency of the strength of the first petitioner's complaint, since no complaint was accepted from the victim herself, such contentions cannot be accepted, since there was no bar for the petitioner no. 1 to include all

the relevant complaints pertaining to petitioner no. 2 as well in his complaint.

That apart, it will be open to the petitioner no. 2 as well as the petitioner no. 1 to seek a re-investigation before the concerned Magistrate, if necessary, and to allege the insufficiency of the offences on which the investigation took place, if they so deem necessary.

In case such approach is made, the competent Magistrate shall decide the same in accordance with law.

There will be no order as to costs.

The parties shall act on the communication of the learned advocates for the parties and/or server copy of this order, without insisting upon prior production of certified copy.

(Sabyasachi Bhattacharyya, J.)

