

03.12.2021.
Court No.13
Item No. 35
ap

**W.P.A. No. 6624 of 2021
(Through Video Conference)**

**Cholamandalam MS General Insurance Co. Ltd. & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Debanjan Mukherjee,
Mr. Joyjit Roy Choudhury,
Mr. Shuvajit Bose.

...For the petitioners.

Mr. Amitesh Banerjee, Id. Sr. Standing Counsel,
Mr. Tarak Karan.

...For the State.

Affidavit-of-service and supplementary affidavit
filed in Court today are taken on record.

The writ petition is filed complaining of gross
impropriety and serious doubts on Charge-sheet No.
351 of 2018 dated 11th November, 2018 under
Sections 279/304A of the Indian Penal Code arising
out of Diamond Harbour Police Station Case No. 393
of 2018 dated 27th September, 2018.

It is submitted by the Insurance
Company/petitioners that a claim to the extent of
about Rs.59 lakhs has been paid to the heirs of a
deceased Abirul Islam Laskar, under a decree dated
8th July, 2020 of the Motor Accident Claims Tribunal-
cum-Additional District Judge, Fast Track, 1st Court,
Diamond Harbour in M.A.C.C. No. 372 of 2018. The
claim was filed under Section 161 of the Motor
Vehicles Act, 1986.

The aforesaid charge-sheet and FIR were the basis of the aforesaid M.A.C.C. No. 372 of 2018.

It is submitted that the Insurance Company received an anonymous an e-mail in November, 2020. A letter dated 28th June, 2018 was enclosed that was addressed by the A.S.I., one Bhanu Charan Ranjit of Diamond Harbour Police Station to Officer-in-charge, Beniapukur Police station. It was stated that the death of the said Abirul Islam Laskar actually took place on 18th June, 2018 around the Diamond Harbour Super Speciality Hospital More, when a motor car had crashed into a shop-room.

The Insurance Company would, therefore, submit that the order of MACC dated 8th July, 2020 was obtained by fraud.

The remedy of the petitioners is against the said Charge-sheet No. 351 of 2018 dated 11th November, 2018 under the provisions of Section 173 of the Code of Criminal Procedure.

If such application is made by the petitioners before the learned Additional Chief Judicial Magistrate, Diamond Harbour within a period of fifteen days from date, the learned Magistrate shall consider the same in accordance with law ignoring the delay in making the application.

With the aforesaid observations, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)