

7th January,
2021
(AK)
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W.P.A 5256 of 2020

Mohammad Isha
Vs.
The State of West Bengal & Ors.

Mr. Manoj Kumar Roy
...For the Petitioner.

Mr. Y.J. Dastoor
Mr. Phiroze Edulji
Mr. Samrat Goswami
...For CBI.

Mr. Lalit Mohan Mahata
Mrs. Jhuma Chakraborty
...For the State.

The petitioner alleges that the petitioner is a daily labour. The private respondents demolished the residence of the petitioner on March 25, 2020, for which the petitioner immediately lodged complaint with the police.

Learned counsel for the petitioner argues that no FIR was registered on such complaint. Even if any FIR was registered, no copy thereof was given forthwith, as mandated under Section 154(2) of the Code of Criminal Procedure, 1973, to the petitioner.

Learned counsel argues that since the private respondents have political affiliation and one of them is a local MLA, the petitioner reasonably apprehends that the delay in investigation regarding the petitioner's complaint is deliberate and motivated.

Learned counsel relies on the judgment of *Lalita Kumari Vs. Government of U.P.* reported at (2014) 2 SCC 1 with regard to the mandatory registration of FIR.

Learned counsel appearing for the State respondent argues, by placing reliance upon a police report in the form of instruction filed in court today, that the police have taken sufficient action on the petitioner's complaint.

Not only was a First Information Report registered under the relevant Sections, a notice under Section 41A of the Code of Criminal Procedure was issued to the accused persons and a statement under Section 161 of the Code of Criminal Procedure has already been taken.

Thereafter, it is submitted, the police authorities are keeping a vigil and are proceeding with the investigation.

However, learned counsel for the State respondents submits that the petitioner is not cooperating with the investigation, despite several attempts to issue notice under Section 91 of the Code of Criminal Procedure for the petitioner complainant to provide evidence in support of his allegations.

It appears from the materials-on-record that the police authorities are already investigating into the matter, upon registering a First Information Report and have taken due steps with regard to such investigation.

However, the delay in completion of the investigation might justify an apprehension in the mind of the

petitioner, since the private respondents are politically affiliated.

However, mere apprehension, at this juncture, is not sufficient to prejudge the intentions of the police before a charge sheet is filed in the matter.

That apart, in the event the charge sheet, when filed, is not satisfactory or in accordance with law, the petitioner always has the option to approach the concerned Magistrate in that regard.

Yet, keeping in mind the obvious inequality in social status between the petitioner, who is a daily labour, and the private respondents, who are allegedly politically affiliated, the Superintendent of Police ought to keep a tab on the matter.

Accordingly, WPA 5256 of 2020 is disposed of by directing the petitioner to cooperate with the police authorities in the matter of investigation regarding his complaint.

Respondent no.3, the Superintendent of Police, Singur (Rural), Kamarkndu shall keep an eye on the investigation with regard to the complaint of the petitioner to ensure that the same is done expeditiously and impartially.

It is made clear that no aspersion is recorded in this order with regard to the intentions of the local police. In the event the petitioner is convinced that the investigation is not going on impartially and in accordance with law,

the petitioner shall be at liberty to approach the competent magistrate and/or the concerned Superintendent of Police.

If such an approach is made, the concerned Magistrate/Superintendent of Police shall look into the allegations of the petitioner without being prejudiced by any of the observations made herein.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)