

04.08.2021

Ct. No.13

Sl. No. 9

pk/akd

W.P.A. 12055 of 2021 [via video conference]

[Afjal Ali Sha @ Abjal Shaukat Sha and another -Vs- The State of West Bengal and others]

Mr. Sudipto Maitra,
Mr. Rajdeep Majumder,
Mr. Sourav Chatterjee,
Mr. Mayukh Mukherjee,
Mr. Soumya Nag

... for the petitioners

Mr. Kishore Datta, Ld. A. G.
Mr. Anirban Ray, Ld. G. P.
Mr. Raja Saha,
Mrs. Rupsha Chakraborty,
Mr. Sayan Sinha

... for the State.

The writ petitioners are aggrieved by the FIR No. 335 of 2021 dated 25.07.2021 of Panskura Police Station under Sections 376D/376(2)(d) of the Indian Penal Code.

It is submitted by learned senior counsel for the petitioners that the FIR is an attempt to coerce the petitioners from giving evidence against the respondent no. 6, who is an accused in a trial under Section 302 of the Indian Penal Code. It is submitted that the prosecution has been dragging its feet in the trial and the same is being deliberately delayed. It is further submitted that no FIR could have been registered given the nature of the complaint by the victim.

Apprehending unfair trial against the petitioners, the transfer of investigation is also sought before the Central Bureau of Investigation.

This Court is primarily of the view that in the given facts, the petitioners ought to have invoked the power of the High Court under Article 482 of the Code of Criminal Procedure.

In that view of the matter, the writ petition is disposed of without any order.

It is made absolutely clear that this Court has not entered into the merits of any of the contentions of the petitioners. The petitioners may avail remedies under the Code of Criminal Procedure.

Mr. Kishore Datta, learned Advocate General in his usual fairness has submitted that the petitioners should not have any fear of arrest at least 72 hours from now.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)