

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

(Through Video Conference)

WPA 7479 of 2020
with
CAN 1 of 2020

Sk. Jahangir
Vs.
The State of West Bengal & Ors.

Mr. Gouranga Kumar Das
... For the petitioner

Mr. Amitesh Banerjee
Mr. Tarak Karan
... For the respondents

The petitioner says that the Additional Chief Judicial Magistrate, Kakdwip by an order dated 24th July, 2020 had directed the First Information Report (in short “FIR”) to be registered by the Pathar Pratima Police Station under Sections 148/149/354/326/307/365/448/506 of the Indian Penal Code. The FIR has been registered on 17th August, 2020 but under the provisions of Sections 148/149/323/325/508/354/506 leaving sections 326 and 307. The petitioner also says that this recording of FIR without following the direction of the concerned Magistrate amounts to inaction on the part of the police authorities. Moreover, the police authorities are also not taking proper steps after registering of the FIR on 17th August, 2020.

On behalf of the respondents, it is submitted that the order of the Magistrate does not specify the sections under which FIR was required to be registered. The sections referred to by the petitioner are the sections under which the petitioner wanted the FIR to be registered. The concerned police station on the basis of the complaint made by the petitioner has registered the FIR under certain sections which appeared to be relevant. This may have omitted some of the sections under which the petitioner wanted the FIR to be registered. It is further submitted that after registering of FIR, the police authorities have taken all necessary steps to carry forward the investigation including visiting the hospital, collecting the bed ticket to verify the injury report, issuing notice under Section 91 of the Code of Criminal Procedure, 1973 (in short "Cr.P.C."). Some of the accused have been arrested. It is, therefore, incorrect on the part of the petitioner to allege that the police are not taking earnest effort in the investigation and, as such, there is a case of police inaction being made off.

After hearing the submissions made on behalf of the parties and considering the materials on record, I find that the petitioner has approached this Court without even waiting for the charge sheet to be filed. It is true that six months have elapsed from the date of registering the FIR but considering the present situation, it cannot be

said that the Investigating Officer has caused any inordinate delay. The petitioner has the liberty to persuade the learned Magistrate to include in the charge sheet the sections which have been left out. Even prior thereto, the petitioner could have approached the learned Magistrate for necessary clarification but the petitioner without availing such remedies has invited the writ jurisdiction of this Court.

So far as the allegation as to omitting some sections while registering the FIR is concerned, the best course open to the petitioner was to approach the concerned Magistrate who had passed the order dated 24th July, 2020. The said Magistrate would have been in the best position to entertain the allegation of the petitioner which is disputed by the respondents.

The writ petition is, therefor, disposed of by granting liberty to the petitioner to approach the Magistrate concerned for necessary clarification as to the order dated 24th July, 2020 vis-à-vis the registration of FIR by Pathar Pratima Police Station, if so advised.

Nothing further remains to be adjudicated in this writ petition.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Since the writ petition has already been taken up and disposed of, the application for urgent hearing, being CAN 1 of 2020, is also disposed of.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)