

AD. 14.
March 1, 2021.
MNS.

W. P. A. 9476 of 2020
(Via video conference)

Paulomi Dey ((Pal)
Vs.
State of West Bengal and others

Mr. Shibaji Kumar Das,
Mr. Soumya Basu Chowdhury

... for the petitioner.

Mr. Ashim Kumar Ganguly,
Ms. Karabi Roy

...for the respondent-authorities.

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

Despite service, none appears for the
private respondents.

The petitioner alleges that, despite having
lodged appropriate complaint before the police
authorities, the investigation was started merely
under Section 498A of the Indian Penal Code,
1960 and Sections 3/4 of the Dowry Prohibition
Act, 1961.

Learned counsel submits that, by a further
representation annexed at page- 35 of the writ
petition, the petitioner approached the
investigating officer with allegations that
appropriate sections of the Indian Penal Code

had not been clubbed in the investigation, although specific complaints had also been lodged in that regard.

In particular, learned counsel submits that Sections 307/313/323/328/406 of the Indian Penal Code ought to have been clubbed along with the sections already mentioned in the First Information Report for a proper investigation to take place.

Learned counsel appearing for the respondent-authorities submits that, as per her instruction, the petitioner has not cooperated with the investigation by producing certain relevant documents when asked to do so by the police authorities.

Such contention, of course, is refuted by the petitioner.

Learned counsel for the respondent-authorities further submits that the petitioner has proper recourse to approach the concerned Magistrate in the event the petitioner is aggrieved with insufficiency of the sections mentioned in the First Information Report and even to seek reinvestigation, if necessary. That apart, it is submitted by the respondent-authorities that the petitioner cannot take shelter under the writ

jurisdiction of this Court but have an equally efficacious alternative remedy by way of a criminal revision.

Be that as it may, since the petitioner has a remedy in law, as rightly submitted by the respondent-authorities, in the event the petitioner is aggrieved at a later stage, with the inadequacy of the sections under which investigation was conducted and also to seek reinvestigation, there is no scope for interference at the present stage.

However, instead of waiting for the filing of the charge sheet and commencement of trial, since the petitioner has already given a representation with regard to her allegations of inadequacy of the sections of law, it would be appropriate if the respondent no. 4, in consultation with the investigating officer, considers such representation and decides whether to add any further section for the purpose of such investigation.

Accordingly, W. P. A. 9476 of 2020 is disposed of by directing respondent no. 4, in consultation with the concerned investigating officer, to consider the representation of the petitioner, annexed at page- 35 of the writ petition, for the purpose of ascertaining whether,

in their discretion, any further section is to be clubbed along with the existing sections in the First Information Report for the purpose of investigation.

The respondent no. 4 shall intimate the result of such consideration to the petitioner.

The entire process shall be completed within three weeks from date.

It is made clear that the above order is passed without prejudice to the rights and contentions of the petitioner as well as the police authorities in the event the petitioner subsequently approaches the concerned Magistrate with a challenge to the inadequacy of sections and/or seeking reinvestigation.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

