

S/L 1
05.07.2022
Court. No. 19
GB

WPA 1412 of 2022

Smt. Nandita Mitra
VS
The State of West Bengal & Ors.

*Mr. Debjyoti Deb,
Mr. Animesh Paul,
Mr. Syed Owais Ali.*

...for the Petitioner.

*Ms. Chaitali Bhattacharya,
Mr. Kartik Chandra Kapas.*

...for the State.

*Ms. Koel Mukherjee,
Mr. Sayan Mukherjee,
Mr. Anurag Sardar,
Ms. Sohini Bardhan.*

...for the Respondent Nos.7 to 9.

The petitioner alleges inaction on the part of the Officer-in-Charge, Gariahat Police Station. According to the petitioner, the respondent nos.8 and 9 on the basis of a copy of an alleged forged document filed a title suit before the learned Civil Judge (Junior Division), 1st Court at Sealdah. According to the petitioner, a complaint was lodged before the Officer-in-Charge, Gariahat Police Station. Initially, FIR was not registered. The petitioner approached the learned jurisdictional Magistrate under Section 156(3) of the Code of Criminal Procedure. On the direction of the learned Magistrate, Gariahat Police Station Case No.194 of 2021, dated October 9, 2021 under Sections 420/467/468/471/120B of the Indian Penal Code was initiated.

The petitioner alleges that the investigation has been slow. The original document has not been seized, although the civil suit had been filed on the basis of a fabricated

document. The signature of the petitioner was allegedly forged. That the police authorities have been colluding with the respondent nos.7 to 9 and had intentionally not seized the document.

The learned advocate appearing on behalf of the respondent nos.7 to 9 submits that they are not in possession of the alleged document. The allegation of forgery has been denied. The respondents have been granted anticipatory bail by this Court. The original copy of the document dated September 12, 2012 is in the possession of Anutosh Dutta and Subir Hazra, who are not parties to this proceeding. According to the said respondents, Anutosh Dutta and Subir Hazra were the mediators/brokers, who negotiated the deal between the said respondents and their vendor.

The police authorities were directed to produce the case records and a report. From the report filed by the police authorities, it appears that notice under Section 91 of the Code of Criminal Procedure was served upon the petitioner. The petitioner's daughter co-operated with the police authorities. Certain documents were produced, which were seized under proper seizure list. A cheque and other bank documents were also seized. The police authorities also reiterated that the respondent nos.7 to 9 submitted before the police authorities during interrogation that Anutosh Dutta and Subir Hazra were in possession of the alleged disputed document. The Controller, Thika Tenancy was also issued a notice under Section 91 of the Code of Criminal Procedure. Raids were conducted in the addresses of

Anutosh Dutta and Subir Hazra, but they were not found in their respective addresses. One document was seized from the respondent no.9, consisting of three pages, which was a declaration of the petitioner. However, the police authorities are not yet sure whether the said declaration is the disputed document or not. It further appears that the questioned document, which has been seized, has been sent to the Question Document Examination Bureau and specimen signature of the petitioner as collected on the cheque, will be compared.

Under such circumstances, this Court is of the view that the police authorities must gear up the investigation which has begun and on receipt of the report from the Question Document Examination Bureau, shall reach the investigation to its logical conclusion in accordance with law. The search for the original document shall continue. The raids which have already been made by the police authorities on the basis of the statements, which were gathered from the respondent nos.7 to 9, shall continue. Truth should be unearthed.

The petitioner is always at liberty to approach the learned civil court in spite of the pending investigation challenging admissibility of the document and pray for verification of the signature under the provisions of the Indian Evidence Act and also for expert evidence, if the learned court deems fit and proper.

The Officer-in-Charge, Gariahat Police Station shall himself conduct the investigation henceforth, with the assistance of the investigating officer.

Accordingly, the writ petition is disposed of with the aforementioned observations and on the basis of the report filed by the petitioner. The stand of the respondent nos.7 to 9 as disclosed in the letter addressed to the police officer by their learned advocate, is also taken on record.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)