

21.03.2022

Ct. No. 13

Sl.34

pk

W.P.A. 3312 of 2022

**Sekh Jamir and others
Versus
Central Bureau of Investigation & others**

Mr. Kishore Datta,
Mr. Debasish Ghosh,
Mr. Subhajit Roy,
Mr. Nilanjan Adhikari,
Ms. Tarunika Pal

....for the petitioners.

Mr. Anirban Roy,
Mr. Raja Saha,
Mr. Nilotpal Chatterjee

...for the State.

Mr. Y. J. Dastoor,
Mr. Phiroze Edulji,
Mr. Samrat Goswami

... for the CBI.

The short question that arises for consideration is whether the CBI can take up investigation afresh, at the instance of the de facto complainant, after charge sheet has already been filed and put to committal.

By a judgment dated 19th August, 2021, a Full Bench of this Court in WPA(P) 142 of 2021 has directed the CBI to take up investigation of certain matters arising out of post-poll violence (after the Assembly Elections in May 2021).

After a charge sheet was registered on 30th June, 2021 by the State Police, the CBI on the self same incident and against some new persons, has commenced investigation afresh after registering FIR at the instance of one Ratan Dolai.

Mr. Kishore Datta, learned senior advocate, would argue before this Court that by reference to the decision of the Supreme Court in the case of **T. T. Antony Vs. State of Kerala and others** reported in **AIR 2001 SC 2637**, particularly paragraph 27 thereof, the same cannot be permitted.

This Court is of the view that the facts of the case are not such, that warrant interference of this Court under Article 226 of the Constitution of India, especially since an alternative the effective remedy is available to the petitioner under Section 482 of the Cr. P. C. before a Co-ordinate bench, the petitioners may avail such remedy.

Reserving liberty to the petitioners to avail remedies, inter alia, those mentioned herein above, the writ petition is disposed of without any orders.

(Rajasekhar Mantha, J.)