

22.07.2022
Sl.No.3(SL)
srm

W.P.A. No. 7098 of 2022

Sk. Intajul

Versus

State of West Bengal & Ors.

Mr. Ramashis Mukherjee,
Mr. Rameshwar Sinha

... for the Petitioner.

Ms. Chaitali Bhattacharya,
Mr. Kartiik Chandra Kapas

...for the State-respondents.

Mr. Rohan Ojha,
Mr. Shadeb Shabbir Abbasi

...for the Respondent No.8.

The petitioner alleges that the Inspector-in-Charge, Uluberia Police Station, did not conduct the investigation of Uluberia Police Station Case No128 of 2022 dated May 3, 2022, under Sections 341/325/379/506/34 of the Indian Penal Code in a free, fair, impartial and proper manner.

According to the petitioner, the said investigation was done in a casual manner and the error is apparent on the charge sheet. Uluberia PS Charge Sheet No.95 of 2022 dated May 29, 2022 under Sections 341/323/506/34 of the Indian Penal Code should be quashed and the police authorities must be directed to conduct further investigation.

It appears that the petitioner's father also filed a complaint before the learned Additional Chief Judicial Magistrate, Uluberia and on the basis of the order of the learned ACJM, Uluberia PS Case No.167 of 2022 dated June 8, 2022 under Sections 448/195A/323/506/34 of the Indian Penal Code had been initiated. Upon completion of the investigation a charge sheet *vide* Uluberia PS Charge Sheet No.123 of 2022 dated June 30, 2022 under Sections 448/323/195A/34 of the Indian Penal Code has been filed before the learned Court below.

It is submitted by the petitioner that although the complaint and the report of the police authorities indicated that a Maruti car had been taken away by the respondent No.6 and 7, but the charge sheet indicated that a motorcycle had been taken away forcefully by the said respondents. According to the petitioner, the charge sheet cannot be relied upon and the investigating agency must be directed to make further investigation, as the investigating agency had conducted the enquiry on a total misconception of facts.

Mr. Abbasi, learned Advocate represents the Mahindra & Mahindra Financial Services Ltd. and submits that the vehicle was not repossessed by Mahindra and Mahindra. The petitioner's father was a defaulter and

steps were being taken under the applicable law, in respect of such default.

Upon perusal of the petition of complaint as also the police report, it appears that the petitioner had alleged that a Maruti car bearing No.WB 14S 4877 had been forcefully taken away by the respondent Nos.6 and 7. The said car was hypothecated to Mahindra & Mahindra Financial Service Limited. The petitioner's father also did not clear the loan and he was a defaulter.

Thus, there seems to be an obvious error in the charge sheet. Instead of mentioning the vehicle with the vehicle number, the charge sheet indicates that the petitioner had complained that the respondent Nos.6 and 7, had taken away the motorcycle.

Under such circumstances, the petitioner as also the police authorities must approach the learned Court below, before which GR Case No.986 of 2022 is pending, so that the necessary corrections and amendments may be made in the charge sheet. The petitioner will file a '*naraji*' petition. The said petition must be decided within two weeks from the date of filing. Upon consideration of the contentions of the petitioner, the learned ACJM, Uluberia shall pass necessary orders as would be just and proper, if

the learned Court below finds that there are obvious errors in the charge sheet.

It is made clear that even if the investigation is complete, the police authorities shall keep a vigil in order to ensure that the petitioner is not harassed in any way.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)