

**FMA 799 of 2022
With
CAN 1 of 2022**

**Sri Adan Pal
Vs.
The State of West Bengal & Ors.**

Mr. Bharat Chandra Simai
... ... for the appellant
Ms. Chaitali Bhattacharyya
Mr. Kartick Ch. Kapas
... ... for the State

This appeal is directed against the order of the learned Single Judge dated 29th March, 2022 whereby WPA 1050 of 2022 has been disposed of with a direction to the investigating officer in the concerned FIR to consider the appellant's complaint at page 12 of the writ petition and if necessary to conduct further investigation and file supplementary charge-sheet.

Learned Single Judge has not entertained the allegation of the appellant that the original complaint was manufactured by the police.

The records indicates that the appellant had filed the writ petition with the plea that on 1st January, 2022 his minor daughter was sexually assaulted and attacked by the accused persons and she had succumbed to the injuries. The appellant had lodged the written complaint in the local police station on 01.01.2022 which was accepted by the police station without giving seal and signature. At that stage, the appellant was asked by the officer in charge of the police station to sign on some blank paper for preparation of case diary which was

signed by the appellant in good faith. Further allegation of the appellant is that the complaint was manufactured by the officer in charge of the police station on the blank paper signed by the appellant and in that complaint only one accused person was implicated instead of five.

The appellant had placed on record the original complaint made by him at page 12 of the writ petition.

The record further reflects that the appellant had immediately lodged an objection before the authorities on 04.01.2022 and had filed the present petition on or about 19th January, 2022. Hence, such a serious allegation of the appellant cannot be ignored.

Learned counsel of the State has disputed the above aspect of the matter.

Submission of learned counsel of the State is that the charge-sheet has already been filed but the same will not come in the way of making an enquiry on the allegation of the petitioner as the learned Single Judge has already issued a direction for considering the petitioner's complaint on page 12 and to conduct to further investigation and file supplementary charge-sheet if required.

We are of the opinion that once the allegation is against the officer in charge of the concerned police station then the enquiry on this aspect by the investigating officer will not serve any purpose but the same is required to be carried out by some higher officer.

Hence, we dispose of this appeal by directing the Superintendent of Police, Bankura to conduct enquiry on the allegation of the appellant and do the needful in terms of the direction of the learned Single Judge.

Connected application is also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)