

12.7.2022
Court No. 19
Item no.3
sn

WPA No. 9626 of 2022

Nurul Hasan Sardar
Vs.
The State of West Bengal & ors.

Mr. Anjan Duttafor the petitioner

Mr. Subhabrata Datta
Mr. Sanatan Panja ..for the State

Affidavit of service is taken on record.

The petitioner alleges that the principal accused one, Nur Elahi Gazi @ Raja, is still roaming around freely, in the locality, but the police authorities have not arrested him.

It is submitted that the said accused person was politically influential and has been able to avoid arrest. The other allegation is that a police officer of Basanti Police Station, was found to have shared a stage with the principal accused, at a particular function.

On the apprehension that the investigation will not be conducted independently and impartially, the writ petition has been filed, for necessary orders.

A detailed report has been filed by the Superintendent of Police, Baruipur Police District. It appears from the report that on the written

complaint of one Saddam Sardar, dated July 24, 2021, Basanti Police Station Case No. 418 of 2021 under Sections 147/148/149/325/326/307/302/34 of the Indian Penal Code, and Sections 25/27 of the Arms Act, read with Sections 3/4/5 of the Explosive Substances Act, has been started against one Nur Elahi Gazi @ Raja and others. The statement of the de-facto complainant was recorded. The investigating officer visited the place of occurrence and prepared a rough sketch map. The blood stained earth, 12 bore empty cartridge, stone chips which smelt of gun powder, some burnt threads indicating remnants of a bomb blast and other relevant articles, were all seized and sent for examination.

One Monoara Sardar died on spot. Manjur Alam Sardar and Nurul Hasan Sardar received bullet injury and were shifted to a hospital for treatment. The petitioner is one of the injured persons.

Raids were held on July 25, 2021. Two F.I.R. named accused persons were arrested. Statements of the arrested persons, were recorded under Section 161 of the Code of Criminal Procedure. Again a raid was held on July 26, 2021 and three more F.I.R. named persons were arrested. Their statements were also recorded under Section 161 of the Code of Criminal Procedure.

On the basis of the statements of the arrested persons, further raids were conducted and ultimately 9 out of 32 accused persons, were arrested by the police authorities.

It is true that the principal accused is still absconding and the police authorities have not been able to apprehend him.

However, steps have been taken before the learned Court below for necessary warrant and for other directions as per Code of Criminal Procedure.

Statements of the injured persons were recorded under Section 161 of the Code of Criminal Procedure. Two persons were forwarded to the learned jurisdictional Magistrate for recording statements under Section 164 of the Code of Criminal Procedure. The petitioner's statement under Section 164 of the Code of Criminal Procedure was also recorded. The post-mortem report and the injury report were collected. Report of the experts under Arms Act was obtained. Seized articles had been sent for expert opinion to the Central Forensic Laboratory and the opinion confirmed that explosive substances were used during such incident. The viscera of the deceased was preserved and sent to the State Forensic Laboratory, Kolkata for expert opinion.

According to the police investigation, 32 persons have been implicated in the case. Some of the accused persons surrendered before the learned Court below and the other accused persons are absconding.

Having considered the detailed report, this Court is satisfied that the police authorities have progressed with the investigation.

However, considering the gravity of the offences and the materials disclosed before this Court, this Court specifically directs that the Superintendent of Police, Baruipur Police District, must monitor the investigation, henceforth and reach the same to its logical conclusion by unearthing the truth. The provisions of Sections 82 to 85 of the Code of Criminal Procedure, which are yet to be complied with by the investigating officer as per the report, must be complied with, expeditiously.

This Court expects that the Superintendent of Police, Baruipur Police District, shall use his expertise and experience to reach the investigation to its proper conclusion. The raids shall continue in order to trace out the absconding accused persons and other steps under the Cr.P.C. shall be taken by the police in respect of the absconders.

The police report be kept in a sealed cover.

This writ petition is disposed of.

There will be, however, 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.)