

24.06.2022
Court No. 19
Item no.09
CP

WPA No. 9818 of 2022

Mukti Mondal (Halder)
Vs.
The State of West Bengal & ors.

Mr. Rabiul Islam
Ms. Pramita Banerjee

...for the petitioner.

Mr. Atis Kumar Biswas
Mr. Amit Singh
Ms. Jyoti Agarwal

...for the respondent no. 9.

Ms. Chama Mookherji
Mr. Gourav Das

...for the State.

The petitioner had alleged that the Officer-in-charge, Karimpur Police Station had colluded with the respondent no. 9 and had arrested the petitioner's daughter from the examination venue. The apprehension is that the investigation would not be done in a free and fair manner.

The allegation relates to Karimpur PS Case No. 113/22 dated May 20, 2022 under Sections 341/325/379/506/326/307/34 of the Indian Penal Code.

The prayers in the writ petition are that the respondent no. 9 should be reexamined by a medical officer. The genuineness of the injury reports must be probed. The CCTV footages of Nazirpur BPHC and

Karimpur Police Station for May 20, 2022 and May 21, 2022 must be preserved and the investigation be transferred to an independent investigating agency.

This court had directed the Superintendent of Police to look into the matter, consider the grievances of the petitioner and file a report before this court upon considering the CCTV footages. The CCTV footages which were videographed were produced before this court. This court is of the view that the DVDs/CDs which were produced should be preserved in the police station for the purpose of this investigation, upto the stage of trial.

The report of the Superintendent of Police indicates that the petitioner had a relationship with the respondent no. 9. The relationship ended and disputes arose. On the basis of a complaint filed by the respondent no. 9 before the IC, Karimpur Police Station dated May 20, 2022 with the allegation that the petitioner and her family members had assaulted the respondent no. 9 with iron rods, knives etc. and had fled away with Rs.15,000/-, an FIR was registered being Karimpur PS Case No. 113/22 under Sections 341/325/379/506/326/307/34 of the Indian Penal Code. Injury reports were looked into.

The medical officer of Nazirpur BPHC had prepared a report from which it appeared that

multiple cut injuries in the left forearm, left side of the chest and lower lip were found. Tenderness were found around the optical region and also on other parts of the body. The IO examined the local witnesses. The statements were recorded. The contention of the respondent no. 9 was corroborated by the witnesses while giving their statements under Section 161 of the Cr.P.C. as also under Section 164 of the Cr.P.C.

On the basis of the complaint of the petitioner dated June 17, 2020 Karimpur PS Case No. 131/2020 was registered under Section 376/417/509 of the Indian Penal Code. The High Court granted anticipatory bail to the accused/respondent no. 9. The investigation ended with the filing of a charge-sheet vide Karimpur PS Charge-Sheet No. 206/20 dated September 28, 2020.

Before institution of Karimpur PS Case No. 131/2020 at the instance of the petitioner's daughter, another complaint had been received by the IC, Karimpur Police Station on April 17, 2020 against the petitioner and some of her family members. The said case also ended with the filing of a charge-sheet under Sections 447/325/326/506 and 34 of the Indian Penal Code.

The Superintendent of Police has categorically stated that when the respondent no. 9 went to the

police station on two occasions in connection with Karimpur PS Case No. 113/22, the CCTV footages were categorically examined. The injuries could not be ascertained.

Under such circumstances, when there are cases and counter-cases between the parties, this court is of the view that until and unless the investigating agency reaches a conclusion, the High Court sitting in writ jurisdiction should not monitor the investigation.

From the report of the Superintendent of Police, this court does not find that the Superintendent of Police has considered the issue in a biased manner. The allegation of bias is against the IC, Karimpur Police Station.

The court finds that with regard to the complaint filed by the petitioner's daughter against the respondent no. 9, charge sheet under Sections 376/417 and 509 of the Indian Penal Code, has already been filed. Thus there is no reason to believe that the same police station will conduct the other investigations which are pending against the petitioner and her family members, in a biased manner.

However, as the petitioner has raised such contentions, this court is of the view that the Superintendent of Police will himself supervise the

investigation and constitute a team which shall not include the present IC of the Karimpur Police Station for the purpose of investigation of Karimpur PS Case No. 113/22.

The rights and defences of the parties during trial and at the investigation stage are not decided in this writ petition.

As affidavits are not called for, the allegations against the police authorities are deemed to be denied.

The Superintendent of Police during investigation shall look into the contention of the petitioner about the injury report being false. All CCTV footages which were produced in the court, shall be preserved till the trial concludes.

It is made clear that the police authorities shall ensure that no harm is caused to the petitioner's daughter who is around 20 years and is apprehensive about her safety.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)