

S/L 70
1.7.2022
Court. No. 19
sn

WPA 10741 of 2022

Kamal Ashraf
Vs.
The State of West Bengal & Ors.

Ms. Jhuma Sen ... for the petitioner

Mr. Amitesh Banerjee
Sk. Md. Galib
Ms. Subhra Nag ..for the State

Mr. Pawan Kr. Gupta
Mr. Amitava Roy
Ms. Sofia Nesar
Mr. Santanu Sett ..for the respondent No.4

The petitioner alleges that the investigation of Jorasanko Police Station Case no. 118 of 2022 dated May 6, 2022 has not been conducted in a free, fair and impartial manner.

According to the petitioner, the respondent no.4 ought to have been arrested as the victim was beaten up and left in the cold storage belonging to the respondent No. 4.

It is also submitted that the petitioner has reason to believe that the victim was kept inside the cold storage for a considerable amount of time after he was brutally assaulted by some persons working under the respondent no.4.

It is alleged that the C.C.T.V. footages had not been recovered. Further allegation is that the respondent no.4 is an influential man. He has been

able to influence the police authorities so that he may not be arrested.

It is submitted on behalf of the respondent no.4 that the respondent no.4 had not only given his statements with regard to the unfortunate incident which took place, he also co-operated with the police authorities at every stage of the investigation. Seizure of other articles along with the CCTV DVR from the premises of the respondent no.4 was done by the police authorities. The respondent no.4 has been unnecessarily harassed.

A report has been filed in the form of instruction by the learned Senior standing council. From the report, it appears that the respondent no.4 is one of the tenants of premises no. 10B, M.M. Burman Street, Kolkata 700 007. The investigation of Jorasanko Police Station Case no. 118 of 2022 is under progress.

Initially, the case was started under Section 307/34 of the Indian Penal Code. Later section 307 was replaced by section 302. Some wooden sticks containing blood stains and iron rods were seized from the place of occurrence. The offending weapons and other articles were seized and sent to Forensic Science Laboratory, Kolkata for chemical examination for collection of further evidence. The respondent no.4 was examined. His statements have been recorded. One of the relatives of the respondent no.4 is an accused. The

mobile phone of Abdul Sattar was seized from one Raghibuddin. Some of the C.C.T.V. cameras in and around the cold storage were also seized.

The CCTV camera installed at the premises of the respondent no.4, was not functioning properly and the DVR attached to the said camera was seized. The DVR of the respondent no.4 has been sent to the Central Forensic Laboratory, Kolkata, for further examination.

The investigating agency has decided to get the contents of the DVR checked by the Central Forensic Laboratory, Bhopal and are taking steps.

The police authorities initiated the investigation upon receipt of information over telephone about the victim lying in the road, having suffered bleeding injuries. The investigation also revealed that the assault took place at premises of 10B, M.M. Burman Street, Kolkata 700 007.

The police authorities are patrolling around the place of occurrence, every night. One Lakshman Prasad Agarwal, the person in front of whose shop the victim was lying, was also interrogated and his statements have been recorded under Section 161 of the Code of Criminal Procedure. Some of the accused persons were arrested. The information was received on May 5, 2022 at 19:10 hrs. and on May 6, 2022 at 01:50 hrs, six persons were arrested by the police.

The cold storages situated on the ground floor, owned by the respondent no.4 have been sealed. Other witnesses were also examined. The tower location of the mobile phone of the respondent No. 4 was ascertained. The police authorities have not yet come to the conclusion with regard to the involvement of the respondent no.4 and the investigation is under progress. In order to ensure that evidence may not be tampered and destroyed, the cold storage of the respondent No. 4, has been sealed.

All the nine accused persons were arrested and they are in judicial custody. The police authorities are awaiting further evidence and reports both from Central Forensic Laboratory at Kolkata and Bhopal.

The police authorities shall record the statement of the petitioner under Section 161 of the Code of Criminal Procedure and conclude the investigation expeditiously.

The police report is taken on record.

This writ petition is disposed of.

However, there will be 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.)