

S/L 33
17.11.2022
Court. No. 19
GB

CAN 1 of 2022
In
W.P.A. 10936 of 2022

Prabir Paul
VS
The State of West Bengal & Ors.

*Mr. Sattwik Bhattacharyya,
Mr. Asutosh Bhattacharyya.*

...for the Applicant.

*Mr. Asish Kumar Guha,
Mr. Joyak Gupta.*

...for the State.

CAN 1 of 2022 is an application for recalling of the order dated July 1, 2022 passed in WPA 10936 of 2022. This Court had passed the following order:-

“On the complaint of the petitioner, the police authorities have initiated Purulia(T) Police Station Case No. 99/22 dated June 17, 2022 under Sections 341/323/427/506/34 of the Indian Penal Code against the respondent no.7 and some others. The respondent no.7 is the General Secretary of Purulia Bus Owners Association.

The allegation is that the respondent no.7 obstructed the bus which was being plied by the petitioner. It is submitted that the bus is lying idle in the Purulia Bus Stand.

The report reveals that the police authorities are willing to grant necessary assistance to the petitioner.

This writ petition is disposed of with a direction upon the police authorities to investigate into the case, already started, against the respondent no.7 in a free, prompt and impartial manner and take necessary steps to prevent such untoward incident in future.”

The applicant contends that as the applicant could not appear before the Court on the relevant date and necessary submissions could not be made, the order must be recalled.

The writ petition had been filed challenging inaction of the police authorities. The writ petitioner contended that in spite of having filed a complaint on May 23, 2022, the police authorities did not take any steps. Aggrieved, W.P. No.10936 of 2022 had been filed. It appears that the respondent no.7 was served, but none appeared on his behalf at the hearing.

During the pendency of the writ petition and on the basis of a complaint of the writ petitioner, Purulia (T) Police Station Case No.99 of 2022 dated June 17, 2022 under Sections 341/323/427/506/34 of the Indian Penal Code was registered against the respondent no.7 and some others.

The respondent no.7 is the General Secretary of the Purulia Bus Owners Association. The writ petition was disposed of with a direction upon the police authorities to investigate the case already started against the respondent no.7 and others, in a free and impartial manner and to take necessary steps to prevent untoward incidents in future.

The applicant submits that the order has caused serious injury to the applicant, inasmuch as, the applicant was not aware of such investigation and the applicant did not get a chance to assail the First Information Report and the investigation arising therefrom. It is further submitted that the writ petitioner himself is involved in various scams and

illegal activities. Reference has been made to a newspaper report in this regard.

This Court does not find any reason to modify and/or recall the order dated July 1, 2022 for the following reasons:-

- a) The writ petitioner had alleged inaction of the police authorities.
- b) The Superintendent of Police had filed a report and the learned advocate for the State respondents had made submissions that an investigation was going on against the respondent no.7 and others.
- c) This court directed the police authorities to complete the investigation in a free, fair and impartial manner.
- d) The above observation and direction of this Court does not in any way indicate that the Court had made any observations in respect of the complicity of the respondent no.7.
- e) The involvement of the respondent no.7 and others in the alleged offence in respect of which an investigation was going on, would surface once the investigation is completed.
- f) Even if, this Court did not pass any order upon the police authorities to complete the investigation in a free, fair, impartial and prompt manner, the police authorities were bound to complete such investigation.

Thus, the contention of the applicant that the order passed by this Court would cause serious injury to him, is not

acceptable. The Court directed the police to investigate in a free, fair and impartial manner as is expected from the police authorities. The remedy of the applicant before the appropriate court of law against the FIR and pending investigation were not the subject matter of the writ petition and had not been curtailed by the order dated July 1, 2022.

Accordingly, CAN 1 of 2022 is disposed of.

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

(Shampa Sarkar, J.)