

26.07.2022
Court No. 19
Item no.03
CP

W.P.A. No. 11153 of 2022

Chaitali Halder

Vs.

The State of West Bengal & ors.

Ms. Prajnadeepta Roy

Mr. Anubrata Dutta

...for the petitioner.

Mr. Raja Saha

Mr. Domingo Gomes

....for the State.

Ms. Sanjukta Samanta

....for the respondent no. 6.

The writ petition is misconceived.

According to the petitioner, due to the overt act of the police authorities, specially the Inspector-in-Charge, Barasat Police Station, the investigation was transferred to Balasore by the learned Chief Judicial Magistrate, 24-Parganas (North).

It is submitted that the transfer of Barasat PS Case No. 960 of 2021 dated December 22, 2021, under Sections 376 and 417 of the Indian Penal Code, to Balasore, occurred under suspicious circumstances, without any notice to the de facto complainant.

The specific contention of the petitioner is that the case records in the court below, did not indicate

whether such order was ever passed. Allegation is that the police authorities colluded with the accused persons and either procured an order or tampered with the records by creating an order, which did not exist in law or in the court records. It is specifically submitted that the learned advocate who searched for the records in the court of the learned Chief Judicial Magistrate, 24-Parganas (North), did not find the order. Aggrieved by the aforementioned facts and circumstances, the writ petition has been filed.

On the complaint of the petitioner, an FIR was registered and Barasat PS Case No. 960 of 2021 was registered. Statements of the victim girl was recorded under Section 164 of the Cr.P.C. The victim girl was sent for medico-legal examination. The report of the examination was also collected. As it was found during investigation that the place of occurrence was in Kuldiha at Balasore, a prayer was made by the investigating officer before the learned Chief Judicial Magistrate, Barasat for transfer of the investigation to the Nilagiri Police Station, Balasore, Odisha.

The police report is taken on record. The IC, Barasat Police Station has stated that the petitioner was aware of the transfer of the investigation. It was informed to her verbally and over WhatsApp. Screen shots of the WhatsApp messages have been annexed

to the report. It appears that the petitioner also went to Balasore to meet the investigating team.

A photocopy of the order dated December 27, 2021, passed by the learned Chief Judicial Magistrate, 24-Parganas (North) has been produced by the police authorities. It appears that Shri Sandip Kumar Kundu, Chief Judicial Magistrate, 24-Parganas (North) had passed the order and affixed his signature on the said order.

Under such circumstances, the court does not find that there has been any overt act by the police. If the petitioner is aggrieved with the order of transfer of the case to Balasore, Odisha, the remedy of the petitioner would be before the appropriate forum. A judicial order is not amenable to writ jurisdiction.

This order will not prevent the petitioner from approaching the learned court below for obtaining a certified copy of the order of transfer of the investigation to Balasore.

The information slip which has been filed with the writ petition indicates that the case dockets were transferred with all relevant documents to Nilagiri Police Station, Balasore as per the order dated December 27, 2021.

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.)