

04.08.2022
Court No.19
Monthly List
Item No.56
AP

WPA 13089 of 2022

Amit Kumar Ghosh

Vs.

The State of West Bengal and Ors.

Mr. Kishore Dutta, Senior Advocate
Mr. Kuldeep Mallick
Mr. Sayantak Das
Mr. Bijoy Bag
Mr. Sumitava Chakraborty
Mr. Riju Ghosh

... For the Petitioner.

Mr. Nelatpal Chatterjee
Mr. Amritlal Chatterjee

... For the State.

Mr. Rajesh Upadhyay
Mr. Ayant Shaw

... For the private respondent.

The petitioner alleges that the Inspector-in-Charge, Shibpur Police Station failed and neglected to take steps on the basis of the compliant filed on 19th April, 2022.

The petitioner alleges that some of the directors of the company forged the signature of the petitioner on several documents, which were later used for preparation of a deed of power of attorney in favour of one of the directors and his sons and as a letter of intimation to the bank, for closure of the bank account.

Mr. Upadhyay, learned advocate appearing on behalf of the other directors, seeks to intervene in the proceeding. Such prayer is allowed.

Mr. Upadhyay submits that when the petitioner was removed from his directorship for indulging in fraudulent activities behind the back of the other directors, he woke up from his slumber and filed the false complaint. It is alleged that those documents were signed by the petitioner himself in 2013 and 2015, but the petitioner lodged the complaint in April, 2022 as a retaliation. Such inordinate delay itself indicates that the allegations are false.

It is submitted by Mr. Upadhyay that the petitioner was removed from the directorship on tenable grounds. Such removal had been challenged before the NCLT. The petitioner has failed to obtain any interlocutory order in his favour.

According to Mr. Dutta, learned senior advocate for the petitioner, the proceedings before the NCLT arose out of the provisions of the Companies Act and cannot have any impact on the investigation of the alleged offence of fraud, forgery and fabrication of documents etc.

According to Mr. Dutta, the investigation has not been conducted in an appropriate manner. The alleged documents have not yet been seized and police authorities have not made any attempt to collect evidence on the basis of the complaint lodged by the petitioner.

Learned advocate for the State denies the allegations of police inaction. A report has been filed before this Court. The same is taken on record.

It appears from the report that on the basis of the written complaint of the petitioner, Shibpur Police Station Case No.115 of 2022 had been initiated under Sections 467/468/471/406/420/506/34 of the Indian Penal Code. The investigation is in progress. The investigating officer visited the place of occurrence and prepared a rough sketch map, examined the available witnesses and recorded the statements under Section 161 of the Code of Criminal Procedure.

Notice had also been sent to the petitioner under Section 91 of the Code of Criminal Procedure for providing the documents, which would be required in the interest of the investigation.

The investigating officer communicated with the bank in order to obtain the original application form by which the account was opened and also the original letter by which the account was closed, in order to analyse the signatures of the petitioner.

The bank informed the police that the directors had opened an account with the United Bank of India, Dalhousie Branch, Kolkata. Later the bank merged with the Punjab National Bank and as such documents were not readily available.

The investigating officer visited the bank at 6, Church Lane, 1st Floor, Kolkata and recorded the statement of some witnesses. Documents like original balance sheet, account closure letter submitted by the

United Bank of India, Dalhousi Branch, Kolkata were collected.

It was found that the directors of the company, namely Anjani Kumar Mishra and Amit Kumar Ghosh, had put their signatures on both the documents. One Rajesh Kumar Mishra also provided relevant documents. The investigation is going on.

A prayer has been made before the learned Chief Judicial Magistrate, Howrah for collection of specimen signature of the complainant and the learned Court had allowed such prayer and fixed the date on 30th July 2022.

It appears that as many as four cases have been registered on the basis of the complaint of the petitioner i.e. Shibpur Police Station Case No.115 of 2022, Shibpur Police Station Case No.84 of 2022, Shibpur Police Station Case No.183 of 2022 and Shibpur Police Station Case No.92 of 2022.

Investigations are pending in all these cases. Under such circumstances, the allegation of police inaction is not substantiated at this stage.

It appears that the alleged power of attorney and the letter of closure of the bank account which were allegedly not signed by the petitioner, have not been seized. The documents form the basis of the complaint.

The Deputy Commissioner of Police, Howrah Police Commissionerate shall supervise the investigation and ensure that the necessary documents are seized and the investigation is conducted in a free, fair and proper

manner. The investigation must be completed expeditiously.

This order shall not be construed as the acceptance of the allegations of the petitioner and the culpability of the other directors. Such issues are matters of investigation. The remedies of the directors and others under the criminal law, have been kept open.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Shampa Sarkar, J.)