

S/L 425(ML)
16.08.2022
Court. No. 19
GB

WPA 14575 of 2021

Gaurav Banerjee
VS
The State of West Bengal & Ors.

Ms. Pritha Bhowmick.

...for the Petitioner.

*Mr. Amitesh Banerjee,
Mr. Tarak Karan.*

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioner alleges that without going through the medical documents, which would be evidence with regard to the degree of hurt suffered by the petitioner, the police authorities have incorporated a minor section of simple injury in respect of grievous hurt. It is submitted that the CCTV footages of the location, where such assault took place, has not been collected by the police authorities. It is also submitted that on the complaint of the petitioner, Haridevpur Police Station Case No.110 dated April 29, 2021 under Sections 341/323/427/34/379 of the Indian Penal Code was registered, but the investigation is not going as per law.

Mr. Banerjee, learned senior standing counsel on the other hand, submits that the petitioner had handed over the documents to the police authorities by a covering letter which was received by the Officer-in-Charge, Haridevpur Police Station on July 12, 2021. It also appears that the original documents, were kept with the petitioner and the

petitioner undertook to produce them as and when called for. It appears that the place of occurrence was visited, relevant witnesses were examined, their statements were recorded. On the basis of the complaint of one Ms. Anita Karmakar, mother of Ms. Priyanka Karmakar, an enquiry was made. It also appears that Ms. Priyanka Karmakar was interrogated under Section 161 of the Code of Criminal Procedure. As Ms. Priyanka Karmakar could not produce any video recording of the incident, no electronic evidence was collected from her. With regard to non-collection of CCTV footages of Medisus Lab and Clinic and Show Electrical, it appears that police authorities served notices under Section 91 of the Code of Criminal Procedure upon the manager/proprietor of both Medisus Lab and Clinic and Show Electrical asking them to furnish the CCTV footages. The proprietor/manager of the shops intimated the police authorities in writing that the CCTV cameras were out of order. Efforts to recover the mobile phone of the petitioner is going on. The FIR names accused persons surrendered before the learned District and Sessions Judge at Alipore and they were released on bail. The original medical certificate, issued to the petitioner by the EMO of Vidyasagar SG Hospital had been collected. It is submitted that the allegations of the petitioner were not correct and the police authorities were soon going to conclude the investigation and file the report as per the result of the investigation.

Under such circumstances as narrated hereinabove, as the investigation is still going on and the police authorities

have not yet arrived at a final conclusion as to the sections, which are to be ultimately incorporated in the pending investigation, it would not be appropriate for the writ court to direct the police authorities to incorporate other non-bailable sections on the prayer of the petitioner. If the petitioner desires to file more documents and submit a further list of witnesses, who are required to be interrogated under Section 161 of the Code of Criminal Procedure, the petitioner shall supply such list and documents to the investigating agency within August 18, 2022. Upon considering the same and on the basis of whatever has been revealed so far and the evidence before the police authorities, the report in the final form shall be submitted. The remedy of the petitioner before the learned jurisdictional Magistrate and at the trial are kept open.

Accordingly, the 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.)