

24.08.2022  
Sl. No.165(ML)  
srm

**W.P.A. No. 14999 of 2022**

**Asan Ali Mandal**

**Versus**

**The State of West Bengal & Ors.**

Ms. Shabana Hasin,  
Mr. Mobaidur Hossain

...for the Petitioner.

Sk. Md. Galib,  
Mrs. Jyotsna Roy Mukherjee

...for the State-respondents.

Md. G.N. Imrohi,  
Mr. Debapriya Majumder

...for the Respondent Nos.4, 5 & 6.

Affidavit-of-service is taken on record.

The petitioner alleges that Sections 307 and 326 of the Indian Penal Code ought to have been incorporated in the FIR, being Hariharpara Police Station Case No.253 of 2022 dated June 11, 2022 under Sections 341/323/325/34 of the Indian Penal Code. The petitioner submits that due to the injury sustained on the date of occurrence, a serious operation had to be undergone by the petitioner and as such Section 307 must be inserted. It is submitted by the petitioner that the accused persons are roaming around scot-free and they have not been arrested. Orders from this Court have been prayed for.

The learned Advocate for the respondent Nos.4 to 6 denies the allegations and submits that they have been enlarged on bail. It has been further submitted that the remedy of the petitioner is not by way of a writ petition.

Mr. Galib, learned Advocate appearing on behalf of the State-respondents, submits that the investigation was completed and upon taking note of the injury report, the nature of injury was found to be grievous, due to assault by a blunt weapon. A charge sheet being Hariharpara Police Station Charge Sheet No.253 of 2022 dated June 28, 2022 under Sections 341/323/325/34 of the Indian Penal Code was submitted. The respondent Nos.4, 5 and 6, who have been enlarged on bail, are to face trial in open court. The petitioner was also informed about the filing of the charge sheet.

The grievance of the petitioner that Sections 307 and 326 ought to have been incorporated, must be raised before the learned jurisdictional Magistrate before whom the charge sheet has been filed. The investigation is complete, no further order can be passed in this writ petition.

This court has not expressed any opinion on the merits of the claim of the petitioner and the issues shall be decided by the appropriate forum.

Under such circumstances, the petitioner is at liberty to approach the appropriate jurisdictional Magistrate by filing an application/protest petition and the same shall be disposed of in accordance with law.

The observations made in this writ petition are restricted to the disposal of the same and shall not have any impact in any other proceedings.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

**(Shampa Sarkar, J.)**