

31.08.2022
Court No. 19
Item 10(DL)
CP

WPA No. 15371 of 2022

Bhargab Sales Private Limited & anr.
Vs.
The State of West Bengal & ors.

Mr. Debasish Roy
Mr. Sukanta Chakrabarty
Mr. Anindya Halder

...for the petitioners.

Mr. Sourav Chatterjee
Mr. Soumya Nag

....for the respondent nos. 8 & 12.

Mr. Subhabrata Datta
Mr. Banibrata Datta

...for the State.

The petitioners allege that the respondent nos. 10 and 11 who are the Officer-in-Charge, Pragati Maidan Police Station and the Investigating Officer of Pragati Maidan Police Station Case No. 110, dated May 12, 2022, were trying to influence the investigation. They were allegedly pressurizing the petitioner no. 2, to settle the disputes with the respondent no. 12.

The de facto complainant in respect of Pragati Maidan Police Station Case No.110, 2022, is the respondent no. 14, who represented the respondent no. 12. The investigation is in progress. One person, namely, Mrinal Kanti Das, has been arrested and released on bail. The petitioner no. 2 has filed an

application for anticipatory bail. The petitioner prays that a case be started against the police officials and the pending investigation be transferred, either to the Criminal Investigation Department, West Bengal or the Central Bureau of Investigation.

The learned advocate for the de facto complainant opposes such prayer. He raises the question of maintainability of the writ petition. According to him, the accused does not have a right to choose the investigating agency. He further submits that the application for anticipatory bail filed by the petitioner no. 2, had been withdrawn and the petitioner no. 2 is an absconder. He specifically submits that the petitioner no. 2 is a history-sheeter. The petitioner no. 2 and his associates had forged the official seals of the Registry offices and had manufactured documents, thereby cheating the land owners and the common people. He submits that the writ petition should be rejected.

It is the apprehension of the Mr. Chatterjee, learned advocate for the respondent nos. 8 and 12, that if the court entertains the writ petition on the allegations made by the petitioners against the police officers, a free, fair and independent investigation would be compromised. The police authorities, for no reason at all, would be faced with a situation when they would be hesitant to proceed with the

investigation against the petitioners with the courage uprightness and freedom that this case requires.

Mr. Datta, learned advocate appearing on behalf of the investigating agency, has filed a detailed report. The same is taken on record. It appears from the said report that the petitioner no. 2 and his associates have been accused in three cases, namely, Pragati Maidan Police Station Case No. 110, dated May 12, 2022, under Sections 420/467/468/120B/34 of the Indian Penal Code, Pragati Maidan Police Station Case No. 142, dated June 18, 2022, under Sections 443/448/341/323/506 and 34 of the Indian Penal Code and Pragati Maidan Police Station Case No. 144, dated June 20, 2022, under Sections 120B/420/406/467/468/471/193/194 and 34 of the Indian Penal Code. The report also indicates that two civil suits have been filed by the petitioner no. 2 on the basis of the alleged forged documents. That the petitioner no. 2 and his associates were the kingpins of an organized crime involving immovable property. Allegations of forgery, fabrication of documents, creation of fake seals and stamps of the office of the District Sub-Registrar, Alipore and Joint Sub-Registrar, of Alipore at Behala, have been made against the petitioner no. 2 and such issues are pending investigation. Mr. Datta also submits that

the petitioner no. 1 who is the company, does not exist.

Mr. Roy, learned advocate for the petitioners, has relied on certain WhatsApp communications, allegedly between the police authorities and the alleged accused/ petitioner no. 2, as a justification of his allegation that the police authorities allegedly forced the petitioner no. 2, to settle the dispute with the Merlin Group.

The sole purpose of an investigation is to unearth the truth and in the process, the parties involved in such investigation must be provided justice. It is without doubt, that the investigating agency must be aboveboard, completely impartial and upright. The court accepts the proposition of law that the accused cannot choose the investigation agency, but the court cannot deny the right of an accused to pray for a fair investigation. It is not within the expertise of this court to adjudicate whether the police authorities had tried to influence the petitioner in any way. Such allegations are to be enquired into and corrected, prevented and remedied by a superior authority of the said police officers against whom such allegations have been made, in case the allegations are proved to be correct.

The writ court cannot act as the disciplinary authority. The correctness of the statements of the

petitioner no. 2, cannot be decided in this proceeding. The investigations which are pending against the petitioners, will continue irrespective of the order which is being passed in this writ petition.

The investigation shall not be impacted in any way as this court has not formed any opinion about the allegations which have been made against the police authorities.

However, the court directs that the Deputy Commissioner of Police, East Division, Kolkata who is a very senior officer, shall cause an enquiry with regard to the allegations which have been made by the petitioners and take appropriate remedial measures as he deems fit.

This order shall not be construed as an opinion of the court on the correctness of the allegations made by the petitioners and cannot be used as a shield in any way, by the accused.

As no affidavits have been called for, the allegations against the respondents are deemed to have been denied.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)