

29.07.2022
Court No. 19
Item no.03
CP

W.P.A. No. 17008 of 2021

Sri Kaustav Chaudhuri
Vs.
The State of West Bengal & ors.

Mr. Abhra Mukherjee
Mr. Sauradeep Dutta
...for the petitioner.

Mr. Jishnu Chaudhury
Mr. Amritlal Chatterjee
....for the State.

The writ petition had been filed with the allegation that the Narayanpur Police Station Case No. 56 of 2019 dated August 1, 2019 under Sections 120B/420/406/506 of the Indian Penal Code had not been concluded in a free, fair and proper manner. Although more than two years had lapsed, there has been no progress at all.

It has been specifically stated in the writ petition that when the petitioner enquired as to whether any charge-sheet had been filed before the concerned jurisdictional magistrate, the petitioner's learned advocate in the learned court below was intimated that no charge-sheet was available in the record.

The next contention of the petitioner is that the statements of the complainant had not been recorded by the investigating agency.

As the allegations are of siphoning of the funds of the petitioner, criminal breach of trust and cheating, the court deemed it fit to call for the case diary in order to ascertain whether the investigation had been completed or not and whether the statements of the petitioner/de facto complainant had been recorded.

The case diary in original has been placed before this court. It appears that a rough sketch map of the place of occurrence had been prepared. Statements of Nisith Chaudhuri, Joysree Choudhuri, Koustav Chowdhury, Amitava Layek and Subhra Kr. Mondal had been recorded under Section 161 of the Cr.P.C. The petitioner was also issued notice under Section 160 read with Section 91 of the Cr.P.C. A seizure list had been prepared. The money receipts, the general power of attorney, the investment agreement etc. have all been seized and form a part of the case diary. An additional Section 409 of the Indian Penal Code was also incorporated and the charge-sheet vide Narayanpur Police Station Charge Sheet No. 64/2020 dated July 31, 2020 under Sections 420/406/506/120B/409 of the Indian Penal Code was filed before the learned Magistrate on

October 30, 2020 showing the accused persons as absconders.

It appears that upon completion of the investigation, a charge-sheet was filed. The police authorities had mistakenly addressed the charge-sheet to the learned Chief Judicial Magistrate, Bidhannagar Court, but the charge-sheet was duly received by the GRO Section of the learned Additional Chief Judicial Magistrate, Barrackpore Court on October 30, 2020. The copy of the case docket challan and the copy of the charge-sheet has been filed in court. The same are taken on record. All the necessary documents were collected from the HDFC Bank for the purpose of investigation.

Under such circumstances, this court is of the view that the grievances of the petitioner before this court, does not survive. However, the remedy of the petitioner before the learned Additional Chief Judicial Magistrate, Barrackpore with regard to the investigation and the charge-sheet which has been filed, is kept open.

If the petitioner files any naraji petition, the same shall be disposed of expeditiously.

A copy of the charge-sheet along with the challan is handed over to the learned advocate on record for the petitioner.

The police authorities are directed to take immediate steps for rectification of the error which has cropped up in the charge-sheet and for which the entire trial has been delayed for no fault of the complainant. Such steps shall be taken within two weeks from date. The learned court below shall pass appropriate orders in this regard.

However, it is made clear, that the police authorities shall continue to look for the accused persons and take appropriate steps before the court below for necessary orders in this regard.

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.)