

Item no. 03

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice T.S. Sivagnanam

And

The Hon'ble Justice Supratim Bhattacharya

MAT 1638 of 2022

with

IA No. CAN 1 of 2022

Goutam Banerjee & Anr.

vs.

State of West Bengal & ors.

Appearance:

For the Appellants : Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Prabir Kr. Mitra
Mr. Ayan Bhattahcharya
Mr. Pinak Kr. Mitra
Ms. Ariba Sahab

For the State : Mr. Anirban Ray, Ld. G.P.
Mr. T.M. Siddique
Mr. Debasis Ghosh
Mr. Arijit Chakraborty
Mr. Nilotpal Chatterjee
Mr. Soumitra Mukherjee

For the petitioner in
W.P.A. 16929 of 2022: Mr. Rudranil De
Mr. Navanil De
Mr. Sukanta Chakraborty
Mr. R. Chakraborty
Mr. S. Ghosh
Mr. S. Dey

Heard on : 30.09.2022

Judgment on : 30.09.2022

T.S. Sivagnanam, J.:

1. This intra-Court appeal has been filed by Goutam Banerjee and Monideepa Banerjee, both advocates enrolled with the Bar Council of West Bengal. They are aggrieved by the order passed by the learned Single Bench dated 26th September, 2022 wherein certain observations have been made by the learned Judge as the matter was heard by the learned Court on several occasions and several directions and observations have been made from time to time. We find that the order dated 26th September, 2022 is not a final order and the matter has been directed to be listed before the Court on 15th November, 2022. Thus, the present appeal filed under Clause 15 of the Letters Patent is not maintainable as against the said order dated 26th September, 2022.

2. Mr. Bhattacharya, learned Senior Advocate appearing for the appellants submitted that in page 2 of the order dated 26th September, 2022 certain observations have been made and those observations should not be construed as positive directions issued to the investigating agency and the appellants have no further qualms for the investigating agency to conduct the investigation and the appellants have been cooperating with the investigating agency and they will continue to extend their cooperation with the said agency.

3. The learned Additional Government Pleader appearing for the respondents would submit that the writ petition was heard on several

dates, persons have deposed before the Court in person and sealed cover reports have been called for, which had been perused by the learned Court and thereafter directions have been issued and the matter will be heard on 15th November, 2022.

4. As pointed earlier, since the impugned order in this appeal is not a final order and this intra-Court appeal is not maintainable. However, we wish to state the legal position namely that the investigating agency is bound to carry on investigation in a fair and transparent manner. The Criminal Procedure Code, 1973 and allied laws have clearly mentioned about the procedures to be followed when a criminal investigation is being done. Therefore, until and unless a positive direction is issued by a Court to arrest a person, it cannot be construed as a direction. Therefore, the investigating agency should apply its mind to the facts in issue and thereafter proceed in accordance with law. This is all that we can observe in this appeal, which we have held to be not maintainable.

5. Accordingly, the instant appeal stands **dismissed**, however without any order as to costs. Consequently, the connected application also stands disposed of.

(T.S. Sivagnanam, J.)

I agree.

(Supratim Bhattacharya, J.)

