

Court No. 2

12.08.2022

(DL 3)

(B.P./
S. Banerjee)

Calcutta High Court

In the Circuit Bench at Jalpaiguri

Appellate Side

WPA 2127 of 2022

Motiul Mia & Ors.

Vs.

The State of West Bengal & Ors.

Ms. Esha Acharya
Mr. Kunaljit Bhattacharjee

... for the petitioners

Mr. Bikramaditya Ghosh
Mr. Pretom Das

... for the State

This application is for a direction to issue appropriate writ for investigation by an independent authority apart from Special Task Force (STF) in respect of New Jalpaiguri Police Station charge-sheet no. 315 of 2022 dated 27.04.2022.

It has been submitted by Ms. Acharya, learned advocate for the petitioners, that the petitioners filed one application for preserving a CCTV footage of a weigh-bridge from where, according to them, they were actually arrested. According to them they were actually arrested from Boxirhat, Coochbehar but their place of arrest has been shown as Gajoldoba in Jalpaiguri.

After going through the papers and document and after hearing the submission of both the parties, I do not find any merit in the case. The first reason is that the said application for production of CCTV footage, which would have proved the petitioners' presence in Boxirhat, Coochbehar, was made only by Motiul Miah and Rafikul haqu, i.e., the petitioner nos. 1 and 3 respectively. Therefore, this application cannot be maintained by the petitioner nos. 2 and 4. The names of petitioner nos. 2 and 4 have been struck out from this petition.

An application was made by two petitioners indicated above on 30.11.2021 before the learned Additional Sessions Judge, 2nd Court (Learned Special Judge NDPS Court) for production of CCTV footage of one weigh-bridge in Boxirhat, Coochbehar. They were arrested on 1st November, 2021 and they filed this application after 30 days from the date of their arrest. From the annexure to the petition which are certified copies of the order, I find that on several dates the matter was taken up but it was never prayed by those two petitioners for hearing of the application for production of CCTV footage of the weighbridge. Only on two occasions the application was taken up within a period of three months and within

that period of three months at least seven times the matter was taken up by the court but I do not find that anybody was pressing for the petitioner nos. 2 and 4 for production of the said CCTV footage.

Ms. Acharya, learned advocate for the petitioner, has strenuously argued that it is for non-production of the case diary, the CCTV footage could not be brought.

I do not find any link between non-production of the case diary and not bringing the CCTV footage. I find that only on one occasion, i.e., on 24th March, 2022, the public prosecutor prayed for an adjournment and on other dates adjournment was not prayed by the public prosecutor. On those other dates it was also not pressed by the petitioner nos. 2 and 4 that their application for production of CCTV footage for which they applied on 30.11.2021, is required to be heard, otherwise they will face serious prejudice. I do not understand why if the CCTV footage is of so much importance to the said petitioners as indicated above, why they did not pray it on different dates.

Therefore, I find that it is only a ruse for them to take advantage of not having the said

application for production of CCTV footage within three months. The three-month period here is important because, according to the petitioner, on expiry of the three months from the date of recording, the CCTV footage recording gets automatically erased. The petition was finally heard by the court and on 19th May, 2022 the application filed by the petitioner nos. 2 and 4 was rejected. That prompted the petitioner nos. 1 and 3 (as I have already struck out the names of petitioner nos. 2 and 4) to file this application praying for investigation by some other agency.

Mr. Ghosh, learned advocate for the State, has submitted that in this matter charge-sheet has already been submitted. The petitioners were deeply involved in smuggling contrabands from Manipur and other areas outside the country to some other places and from the fuel tank of their car in Gajoldoba, Yaba tablets were found. The fuel tank of the concerned car was compartmentalized in two parts and from of them the contraband was found and, therefore, under no circumstances investigation can be given to any other agency when the investigation has been thoroughly made and they were arrested and the contraband was found in presence of a Deputy Superintendent of Police in Gajoldoba.

I do not find any reasons on the part of the petitioner nos. 1 and 3 to make such a prayer for investigation by any other agency.

For the reasons stated above, the writ application stands dismissed without, however, any order as to costs.

(Abhijit Gangopadhyay, J.)