

Item-34. 22-11-2023

sg Ct. 35

WPA 1970 of 2019

Ranjit Das
Versus
State of West Bengal & Ors.

Mr. Debashis Banerjee, Adv.

Mr. Rakesh Jana, Adv.

...for the petitioner

Ms. Chndreyi Alam, Adv.

Ms. Runu Mukherjee, Adv.

...for the Union of India

Mr. Sirsanya Bandyopadhyaya, Adv.

Mr. Subhendu Sen Gupta, Adv.

...for the State

1. The petitioner is aggrieved with the inaction of the respondent authorities in proceeding duly in compliance with the law, in connection with Swarupnagar Police Station Case No.01/16 dated 02-01-2016 under Sections 341/323/325/308/34 of the Indian Penal Code.
2. The petitioner's specific grievance is that, in spite of lodging of FIR as above and the Magistrate's Court taking cognizance of the offence and issuance of warrant of arrest against the accused persons i.e. respondent nos. 6 and 7 in this writ petition, the same has not yet been executed, causing prejudice to the interest of the petitioner.
3. The crux of the matter appears to be that the petitioner has lodged an FIR on the allegations of offence by the respondent nos. 6 and 7 under the aforestated provisions of law concerning an incident on January 2, 2016. Investigation was proceeded with and ultimately, the police has submitted charge-sheet in this case.
4. According to Mr. Debashis Banerjee, learned Counsel appearing for the petitioner, the petitioner has lodged FIR

without naming accused persons as the petitioner was not in a position to identify the accused persons at that point of time. It is pointed out that only during investigation, the names of the accused persons i.e. the respondent nos. 6 and 7 have transpired and ultimately police has submitted charge-sheet against those persons. The petitioner's grievance is that since the said accused persons have been evading the trial and appearance before the Magistrate, the petitioner's rights are seriously prejudiced.

5. Ms. Chandreyi Alam, learned Counsel appearing for the respondent nos.4 and 5 submits firstly, that no persons as respondent nos. 6 and 7 were deployed in the battalion on the concerned date of occurrence. Secondly, she has pointed out to the document enclosed with the report submitted by her client and has submitted that the police authorities have, time and again, been called on to physical investigate as to the identification of any such person on the particular date and time within the battalion, which, she says, that is yet to be done by the same.
6. It is submitted on behalf of the State respondents that, pursuant to the investigation, names of the accused persons have revealed, to have been involved in the alleged crime.
7. Mr. Subhendu Sen Gupta, learned Counsel appearing and representing State respondents, submits that necessary instruction for execution of warrant of arrest and arrest of the concerned respondents here i.e. the respondent nos. 6 and 7/accused persons, have already been sent to the BSF authorities by the police. He submits that the same is yet to

be complied with by it. It has further been submitted that the accused persons may have fled away to some other state.

8. Record reveals that Magistrate, after taking cognizance of the offence, has issued warrant of arrest in view of the absence of the accused persons in Court. The statutory provision requires the police authorities to take an appropriate step and execute the warrant of arrest to obviate presence of the accused in Court. This is the statutory mechanism to expedite the trial and the same is also a necessity to maintain the rule of law. In this case, till date, there is no compliance of the order of the Magistrate as regards arrest of the accused persons, which definitely is deferring the trial to the detriment of the interests of the petitioner, as well as defeating the ends of justice. No cogent explanation could be found in the case as to why the police is still unable to execute the warrant of arrest against the accused persons or regarding any sufficient ground, which has prevented them to comply with the Court's order. In a way its own action is defeating the outcome of investigation conducted by it and obviously is detrimental to the dispensation of justice.
9. Let the higher authorities also be aware about the unexplainable blockade, with which a most vital wing of the criminal justice system, is being suffering, resulting into delay and possibly defeat of justice, by sending a copy of this order to Superintendent of Police, Basirhat Police, District, i.e, respondent no.2 in this case.
10. This writ petition is disposed of with the direction upon the police authorities to immediately execute the warrant of

arrest and produce the accused persons before the Magistrate pursuant to which the Magistrate shall immediately proceed with the trial or to submit a report before the Magistrate regarding the reasons for non-execution of the warrant of arrest.

11. In the later event, the Magistrate, upon being satisfied as to the causes shown shall take appropriate steps in accordance with law in view of the execution of the report submitted by the police.

12. The writ petition is, thus, disposed of.

13. Let the copy of list of names of battalion members, submitted by Ms. Alam in Court today, be kept with the record.

14. Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Rai Chattopadhyay, J.)