

17.04.2023.
Court No.13
Item No. 288
ap

W.P.A. No. 5336 of 2022
Asish Kumar Das & Anr.
Versus
The State of West Bengal & Ors.

Mr. Rajdeep Majumder,
Mr. Mayukh Mukherjee,
Ms. Aishwarya Bazaz.

...For the petitioners.

Mr. Nilotpal Chatterjee,
Mr. Amritlal Chatterjee.

...For the State.

Mr. Dhiraj Trivedi.

...For the CBI.

1. Affidavit-of-service in Court today be taken on record.
2. In terms of the direction dated 3rd April, 2023, service has been effected on the respondents.
3. The petitioners seek transfer of Nandigram Police Station Case No. 84 of 2022 dated 5th February, 2022 under Sections 341/376D/307/379/506 of the Indian Penal Code to the Central Bureau of Investigation (CBI).
4. It is submitted by Mr. Majumder that the case has been investigated as a counter blast to prevent the petitioners from deposing evidence in the post poll violence case being CBI Case being No. RC 0562021S0032 dated 30.08.2021.
5. Mr. Majumder places an observation of the Sessions Court in its order dated 17th March, 2022 in

connection with the instant case which is set out hereinbelow:

“It appears from the medical report of the victim that does not corroborate the statement of the victim. In the medical report it has been specifically mentioned that there is no sign of any external injury at any body part, vagina and vulva region : No external injury. The allegation in the FIR is that three accused persons committed rape on the victim one by one. This is a case under Sections 341/376D/307/379/506 of the Indian Penal Code.

In view of the medical report of the victim, prima facie, I do not find any material under Section 376D of the IPC. Other allegations against the accused are general in nature. The accused has been in J/C since 07.02.2022.”

6. The charge-sheet filed by the State indicates the petitioners as absconders despite protection granted to them in this Court’s order dated 31st March, 2022 against coercive measures.

7. In the above circumstances, this Court is of the clear view that the object and purpose and the truth behind registration of the FIR being Nandigram Police Station Case No. 84 of 2022 dated 5th February, 2022 under Sections 341/376D/307/379/506 of the Indian Penal Code needs to be investigated effectively and independently.

8. In the backdrop of the above, let the aforesaid Nandigram Police Station Case No. 84 of 2022 dated 5th February, 2022 under Sections 341/376D/307/379/506 of the Indian Penal Code be

transferred to the CBI for investigation afresh. It is expected that the CBI takes up the investigation in right earnest arrives at the truth behind the complaint.

9. The chargesheet filed by the Nandigram P.S. No. 241 of 2022 dated 5th April, 2022 shall be kept in abeyance.

10. With the aforesaid directions, the instant writ petition shall stand disposed of.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)