

03.04.2023.  
Court No.13  
Item No. 23  
ap

**W.P.A. No. 7398 of 2023**

**Sekh Jilai  
Versus  
Union of India & Ors.**

Mr. Sabyasachi Chatterjee,  
Mr. Sandipan Das,  
Mr. Badrul Karim,  
Mr. Dipankar Das.

...For the petitioner.

Mr. Amitesh Banerjee, Sr. Standing Counsel,  
Sk. Md. Galib,  
Ms. Ipsita Banerjee,  
Ms. Subhra Nag.

...For the State.

Mr. Billwadal Bhattacharyya, Id. DSGI,  
Ms. Sushmita Saha Dutta.

...For the UOI.

Affidavit-of-service filed in Court today be taken  
on record.

The petitioner seeks transfer of further investigation ordered by the learned Additional Chief Judicial Magistrate, Bolpur, Birbhum on 21<sup>st</sup> January, 2020 in an application filed under Section 173(8) of the Code of Criminal Procedure by one Kajol Sk., the principal accused in the FIR under Sections 302 and 34 of the Indian Penal Code read with Sections 25 and 35 of the Arms Act. The petitioner is the father of the victim.

The Bolpur Police Station had investigated the matter and had submitted a charge-sheet in which the said Kajol Sk. was the main accused person. He was

arraigned as absconding and declared as a proclaimed offender.

Kajal Sk the absconding accused filed an application under 178 (3) of the Cr.PC which heard by the Court below.

The learned Additional Chief Judicial Magistrate, Bolpur, Birbhum found that the CCTV Footage of the Assembly of the State, where the said Kajol Sk. claimed to have been present on the date of occurrence, was not examined by the Investigating Officer. The chargesheet was not accepted and further investigation is undertaken and is pending.

Counsel for the State, Mr. Banerjee, opposes the maintainability of the writ petition. The petitioner was satisfied with the original charge-sheet submitted by the police. It is also submitted that the petitioner had effective alternative remedy against the order of the learned Additional Chief Judicial Magistrate, Bolpur, Birbhum either before the Sessions Judge or the High Court.

This Court does not find any case of inaction on the part of Bolpur Police Station since investigation was completed and chargesheet originally filed. The subsequent conduct of the Bolpur Police Station need not be gone into at this stage since the order of the learned Additional Chief Judicial Magistrate, Bolpur ordering further investigation remains unchallenged till date.

Mr. Chatterjee, Counsel for the petitioner, submits that he did not have access to any of these documents or records of the case, the writ petition has only been moved in the year March, 2023.

The petitioner's main grievance is, therefore, the order of the learned Additional Chief Judicial Magistrate, Bolpur which can be challenged in a higher forum as already indicated hereinabove and such liberty is reserved to the petitioner.

In the above circumstances, this Court is not inclined to entertain the instant writ petition and the same shall stand disposed of without any order.

There will be no order as to costs.

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.)***