

13-06-2023
ct no. 13
sl. no. 1
sp

WPA 7944 of 2022

Ashis Pal

-Versus-

The State of West Bengal & Ors.

Mr. Gouranga Kr. Das,
Ms. Swati Mandal

...for the petitioner

Mr. Amal Kr. Sen,
Ms. Sahina Sumi

...for the State

Mr. Supratim Dhar,
Mr. Dhananjay Nayak

..for the private respondent

1. The State is finally represented.
2. It is submitted by Mr. Amal Kr. Sen, learned counsel for the State that due to error and oversight, it could not be informed to this Court on July 26, 2021 in WPA 11632 of 2021 that the charge sheet had already been filed on May 30, 2021. Mr. Sen has produced case diary before this Court.
3. It appears that the CCTV footage of the residence in question has been seized by the Investigating Officer on May 1, 2021. There are G.D. Entries indicating seizure of the CCTV footage. There is, therefore, presumption of the Investigating Officer has taken into consideration the said CCTV footage.

4. This Court, therefore, prima facie finds no inaction on the part of the police except for an omission on the part of the counsel for the State on July 26, 2021 in the earlier writ petition (supra).
5. The writ petitioner shall, however, be at liberty to challenge the charge sheet and/or report in final form filed by the Investigating Officer before the Magistrate under Section 173(8) of the Cr. P.C., within a period of 15 days from date. He may agitate all issues before the Magistrate including the CCTV footage to demonstrate that Section 379 of the Cr. P.C. ought to have been included in the charge sheet against the accused persons.
6. The Magistrate shall take an independent decision on the matter based on the evidence on record uninfluenced by any observations made hereinabove.
7. With the aforesaid observations, the instant writ petition shall stand disposed of.
8. Since no affidavits have been called from the respondents, the allegations made in the writ application shall not be deemed to have been admitted.
9. There shall be no order as to costs.

10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)