

05.04.2023.
Court No.13
Item No. 362
pk

W.P.A. No. 8480 of 2022
Dr. Tarit Kumar Datta and others
Versus
The State of West Bengal & Ors.

Mr. Kallol Basu,
Mr. Suman Banerjee

...For the petitioners.

Mr. Subhabrata Dutta,
Mr. Abdus Salam.

...For the State.

The writ petitioners seek quashing of Charge Sheet No. 400 dated 31.07.2018 under Sections 354/448/341/323/509/34 of the IPC.

Counsel for the petitioners would argue before this Court that his clients are environmental activists. They were protesting against the illegal filling up of a water body situate and lying at Plot No. 757, Khatian No. 232, J. L. No. 21, Mouza-Joka, P.S.-Haridevpur, Dist.-South 24 Parganas. The authorities were notified and the construction has been stopped. Charge Sheets have been filed against the promoters and their associates. As a counter blast to such proceeding, the complaint being the basis of the FIR was filed against the petitioners and investigation has been completed and the said charge sheet has been filed.

By reference to the decision of the Hon'ble Supreme Court of India in the case of ***State of Haryana & Ors. – Vs. – Bhajanlal & Ors.*** reported in ***1992 Supp (1) Supreme Court Cases 335,***

particularly paragraphs 102(7) and 103, Mr. Basu would argue that the proceedings against his clients are result of personal enmity and spite and therefore cannot be sustained in law.

This Court is of the view that the writ petition is otherwise maintainable. The prayer for quashing of the charge sheet is, however, not entertained since the petitioners have effective alternative remedy under Sections 482 of the Cr. P. C.

It is made absolutely clear that this Court has not in any way pronounced upon the prayers of the petitioners or the facts of the case and if the petitioners move an application under Section 482 of the Cr. P. C., the said Court would proceed in the matter independently and uninfluenced by any observations made herein above.

The writ petition is disposed of.

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.)