

25.07.2023
Item No. 28
BR

WPA 16285 of 2023

Md. Farhan & anr.
-VS
The State of West Bengal & Ors.

Mr.Pronojit Roy,
Mr. Debasis Mitra
.... For the petitioners

Mr. Amitesh Banerjee,
Mr. Tarak Karan
.... For the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to incorporate Sections 307 and 326 of the Penal Code in Airport Police Station Case No. 96 of 2023 that was started at the behest of the petitioner.

Affidavit of service filed on behalf of the petitioner is taken on record. Despite service no one appears on behalf of the private respondent.

Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. There is a long standing dispute between the siblings in a family over the ancestral property. On one occasion the private respondents severely assaulted all the petitioners. The petitioner No. 1 lodged a complaint, but non-bailable sections like Sections 307 and 326 of the Penal Code were not included in the array of charges. Investigation has not been done properly.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Investigation has been concluded in this case. It has ended in a charge sheet being Airport Charge Sheet Case charge sheet No. 108 dated 31.5.2023 under Sections 341,324,325 read with Section 34 of the Penal Code.

I have heard learned counsel for the parties and have perused the writ petition and the report filed on behalf of the State.

From the injury report appended to the writ petition it does not appear that a prima facie case could be set to have been made out under Section 326 or 307 of the Penal Code.

However, if the petitioner is aggrieved with submission of charge sheet under less serious offences, he shall be at liberty to file a protest petition.

As a charge sheet has already been submitted, no further order need be passed in this case.

Accordingly, the writ petition is disposed of without any costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible.

(Jay Sengupta, J.)