

07-08-2023
Item No.24
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.17167 of 2023
Pramita Das
-vs-
The State of West Bengal & Ors.

Mr. Raghunath Adhikary
Ms. Priyanka Saha ...for the petitioner

Mr. Suman Sengupta
Ms. Mousumi Choudhury ...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondents-authorities to form a Special Investigation Team or direct the Central Bureau of Investigation or Economic Offence Department to investigate the entire case within a stipulated period of time.

A report filed on behalf of the State is taken on record.

Learned counsel for the petitioner submits as follows. The petitioner used to be the proprietor of a business dealing with electrical goods. In 2009, two forged bearer cheques were drawn in the name of one Gautam Debnath and another Amitava Roy. The concerned bank had the cheques honoured illegally. This led to the lodging of Shibpur PS Case No.148 of 2009 in 2009 and initially a charge-sheet was submitted in 2012. Thereafter, further investigation was directed on the prayer of the petitioner in 2013. A further charge-sheet was submitted in 2015. In 2022, the petitioner being aggrieved with the defective investigation done by the investigating agency and because of failure

to haul up the main culprit, that is the bank, approached this court with a writ petition (WPA No.21610 of 2022) for police inaction. On December 5, 2022 this court directed submission of a report to be filed by the Commissioner of Police, Howrah, which was subsequently submitted. On February 10, 2023, the writ petition was disposed of with a direction that if the petitioner was aggrieved by the subject charge-sheet, she might take steps in accordance with law before the learned Magistrate. Under such circumstance, the petitioner has approached this court by filing the instant writ petition with the prayer for constituting a Special Investigation Team to investigate the same.

The State relies on its report and submits as follows. This writ petition is barred by *res judicata*. In the order dated February 10, 2023 in WPA No.21610 of 2022, this court held that if the petitioner was aggrieved by the subject charge-sheet, she might take steps in accordance with law before the learned Magistrate, inter alia under section 173(8) CrPC.

I have heard the respective submissions on behalf of the parties and have perused the writ petition and the report filed by the State.

It appears that by the order dated February 10, 2023 passed in WPA No.21610 of 2022 this court had disposed of the writ petition by granting the petitioner liberty to approach the learned Magistrate under section 173(8) CrPC. In spite of this, the petitioner has again approached this court by way of the instant writ petition praying for similar relief. The order dated February 10, 2023 had not been challenged.

This court can not sit in appeal over the

order dated February 10, 2023 passed by a coordinate Bench.

Furthermore, it seems that on several occasions further investigations were directed and charge-sheets were submitted. In spite of this, when this court had granted liberty to the petitioner to approach the Magistrate concerned under section 173(8) CrPC, the petitioner did not take recourse to the same.

Therefore, I do not find any reason to interfere with the instant proceeding in response to the prayers made in the writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Jay Sengupta, J]

