

Ct. 14
Item No.54
27.07.2023
(Suvendu)

WPA 17886 of 2023

**Sutanuka Muhuri
Vs.
State of West Bengal & Ors.**

Mr. Rajdeep Majumder
Mr. Pritam Roy
Mr. Kaustav Mukherjee
Mr. Mayukh Mukherjee
Mr. Sagnik Banerjee
.....for the petitioner

Mr. Amitesh Banerjee
Ms. Ipsita Banerjee
Mr. Tarak Karan
.....for the State

This is an application under Article 226 of the Constitution of India, inter alia, praying for a direction upon the respondent authorities, especially the respondent nos. 3, 4 and 5 to grant police protection to the petitioner and a prayer for free and fair investigation by a woman police officer in the rank of Deputy Commissioner of Police under the supervision of the Joint Commissioner of Police, Crime Branch.

Learned counsel appearing for the petitioner submits as follows. The petitioner is the mother of the victim girl against whom a sexual assault was allegedly committed. First, there is an apprehension

of threat to the life of the victim and her family members as the accused are quite influential and wealthy. Secondly, the investigating agency has not carried out the investigation in accordance with law. In violation of the proviso to Section 154, the FIR was recorded not by a female police officer. There are certain standard operating procedures laid down by the Central Government that in any such case of crime against women. A woman police officer should investigate the crime. In the present case, there is a male police officer who is investigating the alleged offences. He is calling up the victim girl time and again and asking her to come to the police station so that her statement can be recorded. The victim girl is feeling exceedingly uncomfortable because of the atmosphere created by the officer. There needs to be strict compliance of the provisions of section 157, proviso of the Code. Reliance is also placed on the directions passed by a Coordinate Bench of this Court in CRA 660 of 2015 [Reksana Bibi @ Eksana Vs. State of West Bengal] on 29th November, 2017.

Learned Senior Standing Counsel representing the State submits as follows. It was indeed a mistake that a male police officer had actually recorded the FIR. However, at the time of recording of the FIR, a female officer was present. Although this error cannot be undone, the investigating agency

henceforth would strictly comply with the provisions of the Code that are required to be complied with. A female police officer in the rank of Sub-Inspector of Police has already been deputed to investigate the crime.

I have heard the learned counsels appearing on behalf of the parties and have perused the writ petition.

It appears that the investigating agency is trying to correct the errors that had taken place earlier.

Let the investigating agency investigate into the alleged offences expeditiously and in accordance with law.

Strict compliance has to be done of the provisions contained in section 157, proviso of the Code of Criminal Procedure. The investigating agency shall also follow the directions passed by the Coordinate Bench of this Court in CRA 660 of 2015.

In the meantime, the respondent police authorities shall also keep a strict vigil in the locality where the victim resides and ensure that no breach of peace takes place there or harm is done to the petitioner or her family members at their residence.

The personal appearances of the earlier and the present Investigating Officers are noted and are dispensed with.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Jay Sengupta, J.)