

WPA 17889 of 2023

Senehar Khatun @ Senehar Bibi

-vs-

The State of West Bengal & ors.

Mr. Kaushik Kumar Dutta

Ms. Sinaj Khatun

....for the petitioner

Mr. Suman Ghosh

Mr. Samrat Paul

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to take necessary steps in respect of the complaint letter of the petitioner and to investigate into the offences properly and arrest the accused.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a victim lady who was tortured by her husband and the in laws. Even after she gave birth to a child, she was driven out. After that, some negotiations were done pursuant to which the petitioner went back to the matrimonial home. But the petitioner, now in the family way, was tortured again. This time she lost her child due to the assault done by the private respondents. She had to be taken to hospital. But she refused admission there because the the State Hospital Authorities said that she had to leave her six months' old suckling baby alone. During investigation, the victim lady and her family

members co-operated with the investigation and handed over several documents. However, the Investigating Officer of the case never accepted the medical documents of the petitioner although the petitioner offered to supply the same. The Investigating Officer did not pray for police custody once the accused were arrested. The accused are presently on bail. The investigation is not being done properly by the present Investigating Officer.

Learned counsel for the State submits as follows. The defacto-complainant needs to co-operate with an investigation. Even notices were sent under Section 91 of the Code. But, the petitioner did not hand over any document regarding the injury suffered by her. It was learnt that the petitioner was never admitted in a hospital.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition, the report filed by the State and the case diary and the copies of medical documents regarding injury suffered by the petitioner as filed in Court.

It is surprising that the petitioner would hand over documents like pictures of the accused along with her girl friend, but would not hand over the medical documents. This Court is not going for an inquiry as to whether the Investigating Officer has falsely been generating notices under Section 91 of the Code.

It is also reported that the accused were not sought to be taken into police custody.

In view of the above and in the interest of justice, I direct the Superintendent of Police of Murshidabad to appoint another officer of the same police station to conduct further investigation of the case. The same shall be done at the earliest.

The Investigating Agency shall conduct the investigation impartially, expeditiously and in accordance with law.

The petitioner shall co-operate with the investigation in all possibility.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)