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17.08.
2023
Ct. No.14

WPA 17969 of 2023

Debika Debnath @ Mondal
Vs.
The State of W. B. & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. Badrul Karim
Mr. Dipankar Das
.....For the Petitioner
Mr. Billwadal Bhattacharyya
Mr. Debasish Tendon
.....For the NIA
Mr. Anuran Samanta
.....For the Respondent No.7
Ms. Ipsita Banerjee
Mr. Tarak Karan
Mr. S. Adak
.....For the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities not to take any coercive steps against the petitioner and her family members in connection with Jamalpur PS Case No. 201/23 dated 25.06.23 and to hand over the investigation of the case to an independent agency.

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner and her husband belong to the opposition political party and

were candidates in the Gram Panchayat election of 2023. On 25th June, 2023 a bomb was hurled at the residence of the petitioner so as to dissuade them from participating in the election. The miscreants of the ruling political dispensation were behind such incident. This was brought to the notice of the local police station. After some time an FIR was registered. But, the police turned volte-face. On the contrary, the petitioner's husband who was behind the incident was arrested. Wrong provisions under the Indian Explosive Substances Act were imputed along with others. The actual provisions which ought to have been imputed were Sections 5 and 6 of the Indian Explosive Substances Act. The correct Sections would invite an investigation by the NIA Act, according to Section 6 of the NIA Act.

Learned counsel appearing on behalf of the NIA submits that from the facts it appears that a bomb was hurled and the same would attract offences under the Explosive Substances Act. Thus, the matter has to be intimated to the Central Government who will take a call whether to conduct the investigation or not.

Learned counsel appearing on behalf of the State relies on the report and the case diary and submits as follows. The petitioner's husband had employed a local person to have a bomb hurled at his

own residence to gain sympathy of the voters. This could be evident from the statements of the witnesses including the person who had done the act. Pursuant to his statement some articles were recovered and the husband of the petitioner was arrested. Initially it appeared to the police that the provisions of the Indian Explosives Act were attracted. That is why, the case was started, inter alia, under the said Act. However, the case was clearly made out against the husband of the petitioner and the other accused and the investigating agency is competent to investigate the instant case.

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.

This is a rather peculiar situation where the person who claimed that bomb was hurled at his residence to dissuade him to fight an election was made an accused in the same case.

It appears that the police collected some materials to place a case that the husband of the petitioner himself engaged a local person to hurl bomb at his residence to gain sympathy of the voters in the ensuing election. This is a subject matter of investigation.

However, since the prosecution is that a

bomb was hurled at a residence, it is a fit case that would attract the provisions of Explosive Substances Act, which is a scheduled offence as appended to the National Investigation Agency Act, 2008. As per law it is incumbent upon the police to inform the Central Government about this and thereafter, it would be for the latter to take a call as to who would investigate into the alleged offence.

At this stage, learned counsel for the State submits that all steps would be taken that are required under the law.

Let the investigating agency inform the matter to the State so that the State can, in turn, inform the matter to the Central Government.

No further order need be passed in this writ application.

Accordingly, the writ petition is disposed of with these observations.

Urgent photostat certified copy of this order, if applied for, be given to the parties on urgent basis after completion of all necessary formalities.

(Jay Sengupta, J.)

