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25.09.2023
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Ct 14

WPA 19353 of 2023

Sk. Aminur Islam
-vs-
State of West Bengal & ors.

Mr. Rafikul Islam Sardar
Mr. Wasim Raj Sardar
...for the petitioner
Mr. Sk. Md. Galib
Ms. Tanwishree Mukherjee
...for the State
Mr. Sobhan Majumder
...for the private respondent nos. 4 to 9

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

Copy of the report is handed over to the learned counsel for the petitioner.

Copies of the documents filed on behalf of the respondents are also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The private respondents had been harassing, intimidating and assaulting the petitioner and his family members for quite some time. Two earlier cases registered in this regard ended in charge sheets. But the investigations were not done properly due to influence of the private respondents and lesser charges were put. That is why the accused could easily obtain bail. In the third case, there was a grievous hurt inflicted upon the petitioner's wife. She had to be treated in a hospital for seven days. A fracture

was caused on a nasal bone with an iron rod. In spite of that Sections 307 and 326 of the Penal Code were not charged in the FIR. A perfunctory investigation has gone on. The petitioner went to the police station on the day for which notice had been given that the victim's Section 164 statement would be recorded. But it was not recorded despite a subsequent letter given by the petitioner. Only one accused has been arrested out of five. The petitioner has already filed a protest petition in this regard.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. One of the accused was arrested and thereafter, granted bail. Others surrendered and obtained bail.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. After a thorough investigation, charge sheets were submitted in respect of the three FIRs. The police are keeping a strict vigil at the locale. Subsequently, a supplementary charge-sheet was submitted in this case under Section 326 of the Penal Code.

The petitioner seems to have two serious grievances. First, lesser charges were imputed in as much as Sections 307 and 326 of the Penal Code were not inserted in the FIR. The first grievance is already partly redressed since a supplementary charge sheet has been filed under Section 326 of the Penal Code. Secondly, in spite of request, the victim's statement under Section 164 of the Code was not

recorded. It appears that the petitioner has already filed a protest petition, where this can be agitated.

The regular Criminal Court is in seisin of the matter.

Therefore, the writ petition is disposed of by granting liberty to the petitioner to move a protest petition before the learned trial Court taking up the above issues, among others.

The learned trial Court shall decide the naraji petition filed by the petitioner expeditiously and in accordance with law.

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.)