

October 5, 2023
AD 6
Court No.14
SG

WPA 19536 of 2023

Aswani Kumar Chourasia and others
vs
State of West Bengal and others

Mr. Subhabrata Chowdhury
Mr. Biswajit Goswami
Ms. Tripti Pandey
Ms. Kishita Ghosh
Mr. Subhojit Dhibar
... for the petitioners
Mr. Wasim Ahmed
Mr. M. Shehabuddin
... for the State

Mr. Shahrukh Raja
... for the respondent Nos.5 to 7

Learned advocate for the petitioners submits as follows. The respondent Nos.5 and 6 had been threatening and intimidating the petitioners. Once they assaulted the petitioners with fist and blows and wooden sticks. This incident resulting grievous injuries to the petitioners. The petitioners were compelled to sign on a few documents as well as cheques. This matter was reported to the police, but no steps were taken. No charge was made under Section 326 of the Penal Code. The medical report shows that the petitioners suffered multiple fractures on hand. Even thereafter the private respondents have been threatening and intimidating the petitioners. But, no steps have been taken by the police because the respondent No.5 is an influential person being the local councilor. The prayer for anticipatory bail

of the respondent Nos.5 and 6 had earlier been turned down by the learned Sessions Judge.

Learned advocate for the private respondents submits that no direct allegation has been made against the respondent No.5. The Government hospital's report does not say anything about fracture. However, x-ray was done in a private laboratory and the report shows old healing fracture at the shaft of ulna. Section 326 of the Penal Code has rightly not been arrayed as a charge in the FIR.

Learned Advocate for the State relies on the report filed earlier and on the case diary and submits as follows. The statements of the witnesses like a doctor have already been recorded. FIR was lodged after medical examination of the victim at the Government hospital. A prayer has now been made for addition of a charge under Section 326 of the Penal Code. Learned Magistrate has granted liberty to the police authorities to add such charge if the same is made out at the time of filing of charge sheet, if any. It is mentioned that the respondent Nos.5 and 6 have filed an application for anticipatory bail before this Court, which is pending.

It appears that the investigating officer has now collected some materials as would be evident from a plain reading of the case diary. An application has also been made to add the charge under Section 326 of the Penal Code upon which an order was passed by the learned

Magistrate granting the investigating agency liberty to add such charge at the time of filing report in final form.

The investigating officer shall conclude the investigation expeditiously and in accordance with law.

However, the police shall also keep a sharp vigil at the locale and ensure that no breach of peace takes place.

The personal appearance of the investigating officer of the case is noted and is dispensed with.

With these observations, the writ petition is disposed of.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]