

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

W.P.A. 19757 of 2023

Somnath Mondal & Ors.
Vs.
The State of West Bengal & Ors.

For the petitioner	: Mr. Moyukh Mukherjee, Ms. Sagnika Banerjee.
For the State	: Mr. Santanu Kumar Mitra, Mr. Amartya Pal.
For the UOI	: Mr. Arun Kumar Maiti (Mohanty), Mr. Tirthapati Acharyya.
For the respondent no. 10	: Mr. Kushal Kumar Mukherjee, Ms. Eshita Aich.
Heard on	: 22.09.2023
Judgment on	: 22.09.2023

Jay Sengupta, J.

Vakalatnama filed by the added respondent is taken on record.

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

Perused the case diaries.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the winning candidates of Kukrahati Gram

Panchayat, Sutahat Block. The petitioners belong to the opposition political party. They were in majority and were about to form the Board on 10.08.2023. Another winning candidate being Palash Pramanick was abducted by the miscreants belonging to the ruling political dispensation. There were attacks and assaults on winning candidates and others. The father of the victim made a complaint, but no FIR was lodged and no accused was arrested. The abducted candidate could not be traced out. It appears that subsequently the said abducted candidate appeared and was forced to say that he had voluntarily left. The allegations that constituted offence under the Scheduled Caste and Scheduled Tribes Act are also not properly investigated in the second case registered in this regard. The main accused in that case has not been arrested. The investigation agency has not paid heed to the subsequent statement made by the informant on 12th August, 2023, which needed to be considered along with the FIR. There was an unexplained delay of four days in registering the FIR under the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

Learned counsel appearing on behalf of the State relies on the case diary and the report submits as follows. On the complaint by the father of the alleged victim, a specific FIR being Sutahata P.S. Case No.293 of 2023 dated 11.08.2023 under Sections 341,323,363,365,427,506 and 34 of the Penal Code was started against the accused. Thereafter, another complaint was received from the local MLA and the second FIR was registered being Sutahat PS Case No.301 of 2023 dated 15.08.2023 under Sections 341,323,325,354,506 and 34 of the Penal Code and 3(1)(r) & 3(1)(s) of SC &

ST Act. The investigation is being done in both the cases. During investigation, it transpired that the allegedly abducted candidate had been staying at his relative's house. He was recovered and his statement was recorded under Section 164 of the Code. The added respondent being the victim has appeared in Court today and affirmed the said stand. As was directed, the investigations of the cases are being conducted under the direct supervision of Superintendent of Police, Purba Medinipur.

So far as the case of alleged abduction is concerned, the added respondent has appeared in Court through his learned advocate and upon being identified by the Officer-in-Charge of Sutahata Police Station, affirmed the stand taken by him in the statement under Section 164 of the Code that he had voluntarily left the place and was never abducted.

It further appears that as regards the case under Section 3 of the SC & ST (Prevention of Atrocities) Act, there was an unexplained delay of about four days in registering the FIR.

At this stage, it is pointed out by the learned counsel for the petitioner that according to the formal FIR of Sutahata Police Station Case No.301 of 2023 dated 15.08.2023, the letter of complaint dated 10.08.2023 was received by the police authorities on 15.08.2023. However, before that, another complaint from the same de facto complainant was received by the police authorities on 12.08.2023 as would appear from the letter of complaint appended at page 60 of the writ petition. Therefore, this letter dated 12.08.2023 ought to have been treated as the FIR instead of the letter of complaint that was received by the police authorities on 15.08.2023.

These facts are not disputed by the learned counsel for the State, upon instructions.

Therefore, let the investigating agency treat the complaint dated 12.08.2023 received by them on 12.08.2023 itself as the FIR in this case instead the complaint dated 10.08.2023 that was purportedly received by the police authorities on 15.08.2023.

On this, a reference may be made to the decision in ***Amitbhai Anil Chandra Shah Vs. CBI & Anr.***, (2013) 6 SCC 348.

However, the complaint dated 10.08.2023 received by the police on 15.08.2023 shall be made a part of the case diary as a subsequent statement. All materials collected during investigation thus far shall also be retained as part of the case.

The investigating agency shall continue with the further investigation after making necessary corrections in this regard.

The investigating agency shall conclude the investigations in both the cases expeditiously and in accordance with law, especially the case under the provisions of SC & ST (Prevention of Atrocities) Act in reference to the specific provisions laid down in the Act as regards investigation.

With these observations, the writ petition is disposed of.

Urgent certified copy of this order may be given to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

