

WPA 20353 of 2023

Nur Islam Sk

-vs-

State of West Bengal & ors.

Mr. Samim Ahammed

Mr. Arnab Sinha

Ms. Gulsanwara Pervin

....for the petitioner

Mr. Suman Sengupta

Mrs. Munmun Tewary

..for the State

This is an application praying for a proper investigation of the murder case started at the behest of the petitioner and for protection of the petitioner and other witnesses to the crime.

Learned counsel appearing on behalf of the petitioner submits as follows. On the date immediately preceding the Panchayet Polls i.e. on 07.07.2023, the petitioner's father had gone to serve meals to the Election Commission Officers. Soon a fight broke out between the two factions of the ruling political dispensation. The petitioner's father succumbed to the injuries received. After the petitioner went to the spot, he saw the Block President of the political party and some eye-witnesses to the incident present there. The Block President was trying to settle the matter. No complaint was taken from the petitioner. Police arrested three innocent persons.

Thereafter, the petitioner went to the Police Station to lodge the FIR. However, he had to act only as per direction of the police authorities. Otherwise, they would not have accepted the complaint. The police also asked the petitioner to write down that the three persons detained were innocent so as to facilitate their release. The petitioner had to do so. Thereafter, there was incessant pressure from all quarters to settle the matter. The petitioner was constrained to file the instant writ petition. Even after this, the pressure continued. In fact, on 21.08.2023, the police personnel came in private van along with goons of the ruling political party, went to the home of the witnesses and threatened the family members. The witnesses were not there. The women protested. They were also threatened. A videography of a part of the incident was made and could be submitted in a pen drive. The petitioner lodged a complaint in this regard, but no steps were taken. After the matter was mentioned for urgent hearing before this Court with notice to the State, a notice was received by the witnesses that the police would have them examined under Section 164 of the Code.

Learned counsel appearing on behalf of the State submits as follows. The allegations made in the writ petition are denied. The police had taken adequate steps from the moment the unfortunate incident happened. They detained some persons, but it turned out that there are innocent. An attempt was made to reach the eye-witnesses to record the statements under Section 164 of the Code. But, the

witnesses took time. A notice could finally be served on them much later. However, it is also germane to mention that certain illegal acts were done by the local villagers as well when the police went to investigate the matter. This prompted the police to lodge an FIR being Rejinagar Police Station Case No. 175 of 2023 dated 08.07.2023. One accused has been arrested in connection with the murder case. Investigation is going on in full swing.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition and the report filed by the State.

First, the State has not been able to show any document that they had made an effort to intimate the eye-witnesses to have statements recorded under Section 164 earlier. One has to then accept that a notice for examine of the eye-witnesses were given only on 23.08.2023 after a delay of about 1 ½ months from the date of incident.

The initial erroneous detention of three persons in connection with the case raises further suspicion.

If not a deliberate attempt to obfuscate, the police authorities should at least be questioned on their competence.

In view of the same, the further investigation of this case shall be conducted by the CID. The local police authorities shall hand over all documents to the CID forthwith.

The CCTV footages outside the police station from

07.07.2023 always shall be retained until further orders.

The Inspector in Charge of Rejinagar Police Station shall continue with the police camp which is presently posted at the village Najirpur so that the security of the petitioner and the witnesses can be taken care of.

Since affidavits were not called for, allegations are deemed not to have been admitted.

With these observations, the writ petition is disposed of.

Let a copy of this order be sent to the Director General of Police, West Bengal.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)