

22.09.2023
Sl. No. 11
Suman
Ct.No.14

WPA 20478 of 2023

Utpal Paul
Vs.
The State of West Bengal and Ors.

Mr. Aditya Sen
..for the petitioner

Sk. Md. Galib
Mr. Abu Siddique Mallik
..for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to investigate the offences in connection with Shasan Police Station No. 141 of 2023 dated 14.07.2023 under Sections 363/365/323/506/34 of the Indian Penal Code in accordance with law and to have the accused arrested in connection with the same.

The report filed on behalf of the State is taken on record.

Learned advocate on behalf of the petitioner submits as follows. The petitioner was abducted by the miscreants and a ransom was asked for. He was rescued by the police. But, on the complaint of some

of the miscreants, an FIR was started against him, inter alia, alleging cheating and criminal breach of trust. Subsequently two more FIRs were registered against him by the associates of the informant of the first case. The informants are making similar allegations against the petitioner that he owed money for delivery of raw jute. But no investigation was done so far as the case of abduction was concerned. In fact the Investigating Agency filed a misleading report before the learned trial court who was considering the bail application of the accused. Apparently under the impression that the petitioner had been in custody at the relevant point of time, the accused were granted bail. Actually, the petitioner was abducted on 12.07.2023, got released on 14.07.2023 and on 14.07.2023 itself he was arrested in connection with a case of cheating.

The learned advocate on behalf of the State submits as follows. Investigation is going on in full swing in the case of alleged abduction. While the FIR was lodged by an independent person, the statement of the victim was recorded under Section 164 of the Code of Criminal Procedure. Other statements have also been recorded. One of the accused was arrested. The other accused surrendered and obtained bail.

This Court is not going into the merits of the counter cases of cheating. If prima facie is made out, they would go on in accordance with law.

However, so far as allegation of abduction is concerned, the matter has to be investigated seriously by the Investigating Agency.

It appears that the petitioner's statement has been recorded under Section 164 of the Code. A similar statement of the de facto complainant, an independent person, may also be recorded.

The forwarding report dated 09.09.2023 placed before the learned trial Court did not clearly state the facts that the petitioner was arrested on 12.07.2023, kept in custody till 14.07.2023 and after recovery on 14.07.2023 he was taken into custody in connection with the case of cheating. The petitioner shall be at liberty to bring this to the notice of the learned trial court.

Let the Investigating Agency conduct the investigation expeditiously and in accordance with law. In fact, further investigation of the case shall be conducted under the supervision of the DSP, Deganga.

The police authorities shall keep strict vigil at the locale and ensure that no breach of peace takes place.

With these above observations, the writ petition is **disposed of**.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties on usual undertakings.

(Jay Sengupta, J.)