

19.01.2023

**MAT 1529 of 2022
With
CAN 1 of 2022**

**Ali Hossain Mallick
Vs.
State of West Bengal & Ors.**

Mr. Soumen Bhattacharjee

Mr. Amal Kumar Datta

... ... for the appellant

Mr. Amitesh Banerjee, Sr. Adv.

Mr. Tarak Karan

... ... for the State

By this appeal order of the learned Single Judge dated 26th August, 2022 disposing of WPA 15533 of 2022 has been challenged by the writ petitioner.

The brother of the writ petitioner had died, therefore the petitioner had lodged a complaint. On that basis the Panchla Police Station Case No.37 of 2022 dated 11th February, 2022 under section 302 of the I.P.C. was started.

The appellant had approached the Writ Court being dissatisfied with the investigation with the plea to transfer the investigation to the C.I.D.

Learned Single Judge has taken note of the stand of the respondents and has found no ground to transfer the investigation to the C.I.D. Accordingly, the prayer in this regard was rejected.

Learned Single Judge had further observed that if the appellant wants to record further statement he shall meet the investigating agency along with the relevant documents and witnesses and their statements will be

recorded under section 161 of the Cr.P.C. and the documents and the statements shall be a part of the investigation.

Learned counsel for the State has pointed out that meanwhile the investigation is over and FR has been filed on 31st August, 2022. It has also been pointed out that the matter is coming up tomorrow, i.e. 20th January, 2023 before the concerned Magistrate for consideration of the FR.

It is not in dispute that the appellant will have full opportunity before the concerned Magistrate to raise the objection to the FR and point out lacuna, if any, in the investigation.

Hence, at this stage we find no ground to interfere in the order of the learned Single Judge. We make it clear that any observation made by the learned Single Judge on merit will not come in the way of the appellant in raising objection before the concerned Magistrate.

The appeal is accordingly disposed of.

Connected application is also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)