

September 1, 2023
AD 213
Court No.14
SG

WPA 21198 of 2023

Hemant Sadashiv Bhujbal
vs.
The State of West Bengal and others

Mr. Shibaji Kumar Das
Mr. Debarshi Brahma
Ms. Rupsa Sreemani
... for the petitioner
Mr. Santanu Kumar Mitra
Mr. Amartya Pal
... for the State

This is an application under Article 226 of the Constitution of India praying for declaration that arrest of the petitioner on 28.07.2023 in connection with Kasba Police Station Case No.232 of 2023 was unauthorised as a notice under Section 41A of the Code was not given in terms of the judgment in *Arnesh Kumar, (2014) 8 SCC 273* and also for a direction to inform as to how many cases of similar nature have been started against the petitioner.

Affidavit of service filed in Court is taken on record.

A report filed by the State is also taken on record.

Learned advocate for the petitioner submits as follows. An informant had filed an FIR before the Bidhannagar North Police Station alleging that she had not been given all the benefits that were supposed to be given by the accused as per the agreement entered into regarding the travel and tour service arranged by the accused company of which the petitioner is a director. A similar case was filed before the Kasba Police Station

being Case No.232 dated 13.06.2023 under Sections 120B/420/406 of IPC. Without serving a notice under Section 41A of the Code as per the judgement of *Arnesh Kumar* (supra), the police picked him up and forced him to sign on a notice purportedly under Section 41A of the Code. This scheme is continuing in several other similar cases which are being registered at different police stations which is causing serious harassment and agony of the petitioner. At least a list of such cases should be provided to the petitioner.

Learned advocate for the State relies on the report and submits as follows. The records indicate that a notice under Section 41A of the Code was indeed served upon the petitioner in terms of the decision in *Arnesh Kumar's* case (supra). Thereafter, the petitioner was arrested. There is a list of 35 people who have lodged their complaints before the police and the money involved is about ₹50 lakhs. The police have already registered 5 cases which are indicated in the report.

I have heard the submissions and have perused the writ petition and the report filed by the State.

The petitioner claimed that he was not served with a notice under Section 41A of the Code in connection with Kasba Police Station case. On the contrary, it is the specific case of the police that such a notice was served and it contains the signature of the petitioner.

This Court has no material to disbelieve the version of the police that the notice under Section 41A was not served on the petitioner in time.

If the petitioner has committed more offences than one involving different victims, he would have to face different number of cases. It appears that the five cases have been started before different police stations against the petitioner. The petitioner has been served a copy of the report, which contains the case numbers.

In view of the above, no further order need be passed in this case.

With the aforesaid observations, the writ petition is disposed of.

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

[Jay Sengupta, J.]