

13 02.02.2023
rkd Ct.13

W.P.A. 21775 of 2022

Ashoke Dey

-vs-

The State of West Bengal & Ors.

Mr. Soumyajit Das Mahapatra,
Mr. Supriyo Das,
Ms. Madhurai Sinha

....for the petitioner.

The petitioner is aggrieved by investigation into Baranagar P.S. Case No.490 of 2022 dated 27.08.2022.

It is submitted by Mr. Mahapatra, learned advocate for the petitioner that the complaint under Section 156 (3) clearly indicates that whatsapp chat is being used to extract and extort money from him by named accused. Provisions of the I.T. Act, 2000, should, therefore, have been in the FIR.

It is further argued that in respect of FIR involving Sections 66E/67A of the IT Act, investigation ought to be conducted by an officer not less than the rank of Inspector-in-Charge of the concerned P.S.

This Court notes that the FIR was registered on the direction of the Magistrate under Section 156(3) of Cr.P.C. FIR has been vetted by the Magistrate notwithstanding the written complaint

filed before him.

In the above circumstances, this Court at this stage cannot find fault with the non-inclusion of Sections 66E and 67A of the IT Act. However, in view of the fact that the investigating officer himself as stated that he would definitely consider including Sections 66E and 67A of IT Act including Sections 388, 389 and 503 of the IPC if he finds material in course of investigation. IT gadgets and Media have been used in the process of extortion.

The I.O. shall therefore seriously consider incorporating Sections 388, 389 and 503 of the IPC and Sections 66E and 67A of IT Act in course of investigation, and report be submitted in final form before the Jurisdictional Magistrate. The investigation must be completed within a month from date.

The report of the Inspector-in-Charge of the Baranagar P.S. dated 30th January, 2023 addressed to the State advocate is taken on record.

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

However, there shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)