

05-09-2023
ct no. 14
Sl. 15
Sayandeep

WPA 21588 of 2023

Tapan Kumar Mali
-Versus-
State of West Bengal & Ors.

Md. Samimuddin
Mr. Sandipan DAs
Mr. Subhankar Halder
Mr. Raunak Shaw
.....for the petitioner

Mr. Jayanta Samanta
Mr. Debapriya Chatterjee
.....for the State

Mr. Nimai Chnadra Konar
....for the respondent no. 10

At the outset the learned counsel appearing for the petitioner submits that the issue of compensation will be taken up separately. Therefore, the petitioner seeks to expunge the name of the respondent No. 10 from the cause title.

Learned counsel appearing for the respondent No. 10 also submits that his client's name may be expunged from the cause title.

Leave is granted to amend the cause title during the course of the day.

Affidavit-of-service filed on behalf of the petitioner is taken record.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing for the petitioner submits as follows. The petitioner's sister was tortured by her husband and the other in-laws. The husband was having an illicit relationship with another lady. An FIR was lodged on 21.11.2022 in this regard. However, thereafter the accused asked the petitioner to come back and stay together. On 11.08.2023 at about 11:50 p.m., the petitioner came to know from his niece that his sister had suffered serious burn injuries and was taken to Uttara Para Hospital. The victim succumbed to her burn injuries on 12.08.2023. The petitioner went to lodge an FIR, but the police insisted on incorporating only Section 306 of the IPC instead of Section 302 IPC. Accordingly, an FIR was registered, *inter alia*, under Section 306 of the IPC. However, the petitioner is in possession of a dying declaration made by the victim which is recorded on a mobile phone. The petitioner offered to serve the same to the investigating officer, but the investigating officer refused to accept it. A representation has been made in this regard by the petitioner. The investigating officer also did not collect the CCTV footage from the house of the

accused itself. The investigation done is absolutely perfunctory.

At this stage, the investigating officer who was present in Court was asked as to why he did not collect the CCTV footage. His answer was that he had asked for it, but it was not given to him. He also denied that the petitioner offered to supply any pen drive containing dying declaration.

Learned Counsel appearing for the State submits that otherwise the investigation has been done properly. Two accused have been arrested.

It does not appear that the present investigating officer is in a position or is equipped enough to conduct the investigation in this case.

In view of the above, let the Commissioner, Chandannagar Police Commissionerate engage a competent officer of the rank of an inspector to investigate into the alleged offences. Further investigation of the case shall be conducted under the direct supervision of the Commissioner.

With these observations, the writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Jay Sengupta, J.)

