

Form J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :
The Hon'ble Justice Jay Sengupta

WPA No. 21993 of 2023

Palash Debnath
Vs.
The State of West Bengal & Ors.

For the Petitioner : Mr. Suddhasatva Banerjee,
Mr. Bikram Mitra,
Ms. Akansha Mukherjee.

For the State : Mr. Somnath Ganguli,
Ms. Priyamvada Singh.

For the Private respondents : Mr. Dwaipayan Banerjee,
Mr. Somesh Panja.

Heard on : 16.11.2023, 05.12.2023.

Judgement on : 05.12.2023.

Jay Sengupta, J.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner has alleged police inaction in respect of a case started by him. He was beaten up mercilessly by some accused including a Police Officer of the CID. Practically no investigation was done and behind the back of the petitioner, a charge-sheet was submitted. On the last occasion, it was submitted on behalf of the State that as the petitioner did not co-operate in having his statement recorded under Section 164 of the Code or produce

materials like final report, the Investigating Officer was compelled to file charge-sheet without complying with the same. A reference may be made to the transcript of the conversation between the victim and the accused. It would be evident how the private respondents had been threatening the petitioner using slang languages, even for approaching the High Court on the earlier occasion. No steps have been taken in this regard. An important officer of the CID is involved in the atrocities as would be evident from the tenor of his conversion. No wonder the Investigating Officer hurriedly and without exploring the possibility of collecting relevant documents filed a sham charge-sheet.

Learned Counsel appearing on behalf of the private respondents denies the allegations made in the writ petition and submits that one of the private respondents has also filed a criminal case in which a charge-sheet was filed. In fact, the complaint filed by the petitioner was a counter-blast against the complaint filed by the private respondents. The private respondents deny the transcript or for that matter the audio/video recording of such conversation.

Learned Counsel appearing on behalf of the State relies on the report filed today and submits that a notice was, in fact, given to the petitioner under Section 91 of the Code of the Criminal Procedure.

It is not normal for an Investigating Officer to stop at giving one notice under Section 91 of the Code to the complaint. It does not appear that the Investigating Officer had given much effort in properly investigating the case while in similar situations investigating report is usually kept pending. The Investigating Officer chose to hurriedly submit a final report.

If investigation is not done properly and materials are not collected during investigation, Trial Court can hardly do anything to unearth the real truth.

Such actions and inactions of the Investigating Agency if read with the allegations and the alleged transcript regarding the involvement of an officer of the CID cast a strong suspicion on the manner of investigation and the intent of the Investigating Officer in conducting such investigation.

Therefore, it would be in the interest of justice to intervene in the matter and pass necessary directions, as under-

- (i) The charge-sheet filed by the Investigating Officer being Gaighata Police Station Charge-sheet No. 539/2023 dated 31.05.2023 under Sections 341/323/325/506/34 of the Indian Penal Code is set aside;
- (ii) Further investigation of the case shall be done by an officer not below the rank of a Deputy Superintendent of Police belonging to the Bangaon Police District to be selected for such purpose by the Superintendent of Police, Bangaon Police District;
- (iii) The Investigating Officer shall also collect the recording device and the video/audio clip of the conversation in question from the de facto complainant and send it for forensic examination to the CFSL, Bhopal;
- (iv) Investigation shall be concluded as expeditiously as possible and in accordance with law;
- (v) The Officer-in-Charge of Gaighata Police Station shall keep a sharp vigil at the locale, ensure that no breach

of peace takes place and no harm is done to the present petitioner and his parents.

Since affidavits were not called for, the allegations contained in the writ petition are deemed not to have been admitted.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)

Srimanta, A.R.(Ct.)
Item No. 592.