

December 1, 2023
AD 2
Court No.14
SG

WPA 22323 of 2023

Kalolwala and Associates Private Limited
vs.
The State of West Bengal and others

Mr. Apalak Basu
Ms. Smita Mukherjee
Mr. Nazir Ahmed
Ms. Saheli Bose

... for the petitioner

Ms. Jhuma Chakraborty
Mr. Parikshit Goswami

... for the State

Mr. Arghya Chakraborty

... for the private respondent

This is an application alleging police inaction regarding investigation of a case of cyber crime.

A fresh report filed by the State is taken on record. A copy of the same is handed over to learned advocate for the petitioner.

Learned advocate for the petitioner submits as follows. The petitioner's complaint was not registered as an FIR by the police. This prompted it to file an application under Section 156 (3) of Cr.P.C. Accordingly, the petitioner filed a complaint under Sections 406/408/409/420/34/ 120B of the Indian Penal Code read with Sections 66B/72/72(A) of the Information Technology Act. Without mentioning any particular section, learned Magistrate passed a direction upon the Officer-in-Charge of Anandapur Police Station by registering an FIR. Therefore, the police had no option

but to register an FIR on all the provisions mentioned in the complaint. In spite of these, the police omitted the charges under the Information and Technology Act and deputed a Sub-inspector of Police to investigate the offence. The petitioner contends that as the leaking of information may be a likely consequence, relevant electronic devices need to be seized at the earliest and sent for forensic test.

Learned advocate for the private respondent denies the allegations and submits that he has already obtained an interim bail from the trial Court.

Learned advocate for the State relies on the report and submits as follows. Due to an inadvertent error, the relevant sections under the Information and Technology Act were not imputed in the FIR. After correcting the error, all the charges under the Information and Technology Act are now incorporated. Accordingly, the investigation has been handed over to an Inspector of Police as required. The investigating officer shall take necessary steps including seizing relevant electronic devices and sending them for necessary forensic test.

It appears that the police have already corrected their mistakes.

The local police station shall have another opportunity to investigate the alleged offences. The investigating officer shall conclude the investigation expeditiously and in accordance with law. The investigation of the case from now on shall be conducted

under the direct supervision of the Assistant Commissioner of Police-II, East Division.

The personal appearance of the Inspector-in-Charge, Anandapur Police Station is noted and dispensed with.

With these 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.]