

October 9, 2023
A 17
Ct. No.14
SG

WPA 24148 of 2023

Rahul Chanda
vs
State of West Bengal and others

Mr. Rajdeep Majumder
Mr. Moyukh Mukherjee
Ms. Sagnika Banerjee

... for the petitioner

Mr. Amal Kumar Sen
Mr. Lal Mohan Basu

... for the State

Learned advocate appearing for the petitioner submits as follows. A notice was given to the petitioner purporting to be one under Section 160 of Cr.P.C., but containing elements of Section 41A of the Penal Code. Practically threats have been given for urgent compliance like that the petitioner shall render full cooperation in apprehension of the accomplice and shall not allow destruction of evidence. These are absolutely unwarranted.

Learned senior counsel appearing for the State relies on the report, which is taken on record and submits as follows. As of now, the petitioner is not an accused in this case. Therefore, a notice was given to the petitioner under Section 160 of Cr.P.C. However, the said notice under Section 160 of Cr.P.C. was not happily drafted. The State shall issue a fresh notice under Section 160 of

Cr.P.C. requiring the petitioner to attend the police station to give his statement.

The portion of the impugned notice which requires the petitioner to give full cooperation in apprehension of the accomplice would necessarily imply that the noticee is an accused and not a witness. This is in clear contradiction to the nomenclature of the notice and the submissions of the State that as of now, the petitioner is only a witness and not an accused. Even otherwise, the notice is bad in law.

In view of the above, the impugned notice is set aside.

The State shall be at liberty to issue a fresh notice under Section 160 of Cr.P.C. to the petitioner asking him to comply with the same.

With these observations, the writ petition is disposed of.

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

[Jay Sengupta, J.]