

01 01.08.2023
NB Ct. 14

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

WPA 1308 of 2023

Babi Chanda
Vs.
State of West Bengal & Anr.

Mr. Ranjan Kali,
Mr. Suraj Bhattacharjee.
...for the petitioner.

Mr. Samrat Sen Id. AAG,
Mr. Amrita Lal Chatterjee.
...for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to take necessary steps to bring the matter to its logical conclusion and to expedite the matter.

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

Learned counsel appearing on behalf of the petitioner submits as follows. Investigation into the case of cheating, criminal breach of trust and forgery has not been conducted properly. Even the de facto complainant's statement was not recorded. The investigation is, in fact, done in a clandestine manner.

Learned counsel representing the State relies on the report as well as the case diary and submits as follows. The investigating officer duly investigate the case, examined relevant witnesses, seized documents and thereafter, submitted a charge sheet being Matigara Police Station Charge Sheet No.779 of

2022 dated 31.07.2022 under Sections 406, 420, 468 and 471 of the Penal Code against the absconding accused.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

It is not always necessary that the de facto complainant's further statement be recorded as he has already lodged an FIR. This cannot be taken as a case of police inaction.

It appears that the IO had sent notices under Section 41A of the Code, which was not complied with. After conclusion of investigation, charge sheet showed the accused as absconding.

It is expected that the prosecution would take necessary steps hereafter for ensuring that the accused participated in the trial, if the same ensues.

The Criminal Court is already in seisin of the matter. If the petitioner is still aggrieved by the investigation done, it shall be open to him to file a protest petition before the learned Trial Court if otherwise permissible in law.

No further order need be passed in this case.

Accordingly, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

