

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 7213 of 2024

Tapasi Mondal

Vs.

The State of West Bengal & Ors.

For the petitioner : Mr. Moyukh Mukherjee
Ms. Sagnika Banerjee
Ms. Sarmistha Basak
Mr. Shouvik Palodhi

For the State : Mr. Amitesh BanerjeeAdvocates
Mr. Akash Dutta

.....Advocates

Heard lastly on : 19.04.2024

Judgment on : 19.04.2024

Jay Sengupta, J:

This is an application seeking registration of an FIR.

A copy of the enquiry report dated 19.02.2024, as filed on behalf of the State, is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an MLA of the opposition political party. A prima facie case of outraging modesty and wrongful restraint in the Assembly premises was made out against the staff in the complaint of the petitioner. Yet, no FIR was registered. Even during purported preliminary enquiry the petitioner was not called, but the accused was examined. This is absolutely bad in law. There is a third video which is also available and may be further looked into by the police for such purpose. However, even in the third video no offensive word could be heard though the conduct of the people present there might indicate that some offensive words might have been used.

Learned Senior Standing Counsel representing the State submits as follows. The allegations made in the writ petition are denied. The complaint did not even prima facie make out a case either of outraging modesty or of wrongful confinement. Therefore, a preliminary enquiry was conducted as there was doubt about commission of a cognizable case. Reliance is placed on Lalita Kumari, (2014) 2 SCC 1. Even the video footages provided by the petitioner were examined, but no case was made out for registering an FIR. Accordingly, a report was prepared.

Although the FIR was not clearly disclosing a cognisable offence, it did indicate a necessity for an enquiry. It also referred to video footages.

It appears that the two video footages supplied earlier by the complainant/petitioner did not contain any offensive word used by anyone present in the gathering that could remotely suggest outraging of modesty of a woman.

Even in the third video footage played on behalf of the petitioner today, no such offensive word could be heard. No surmise or conjecture can be made on the reaction of persons present there.

So far as the FIR is concerned, there it was not made clear about what kind of filthy language was used.

To unearth the truth, some persons were examined and the video footages available were perused.

Otherwise, raising slogans in favour of a particular leader cannot amount to outraging of modesty of women present there.

On the question of wrongful restraint, it has been held by a Division Bench of this Court that unless a person is restricted from moving on all directions, no such offence is made out. On this, reliance may be placed in the case of *Sankar Chandra Ghose vs. Roopraj S. Bhansally* reported at 1981 SCC Online Cal 65.

Besides, considering the quality of materials available in support of the petitioner's case, it will be futile to proceed any further.

In view of the above, I do not find any infirmity in the report filed by the police authorities after completion of purported preliminary enquiry.

Therefore, I do not find any merit in this application.

Accordingly, WPA 7213 of 2024 is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order be supplied to the parties,
if applied for, as early as possible.

(Jay Sengupta, J.)