

WPA 8542 of 2024

Biswajit Dutta & ors.
-vs-
The State of W.B. & ors.

Mr. Rajdeep Mazumder
Mr. Moyukh Mukherjee
Ms. Sagnika Banerjee
Ms. Aishwarya Bazaz
Ms. Sarmistha Basat

...for the petitioners

Mr. Ansar Mondal
Ms. Somashree Dey

....for the State

Learned counsel appearing on behalf of the petitioners submits as follows. The alleged victim filed an FIR, *inter alia*, under Sections 420 and 376 against another person in the year 2022. In 2024, she filed another case, *inter alia*, under Sections 376 (2) (n) and 201 of the Penal Code implicating the petitioner nos. 1 and 2. They were granted anticipatory bail by the learned Session Judge. Subsequently, the alleged victims started two different cases, *inter alia*, under Section 195A of the Penal Code alleging that she was being threatened by the accused to withdraw the complaint. The alleged act did not constitute an offence under Section 195A of Penal Code. On this reliance is placed on *Salib alias Shalu alias Salim -vs- State of U.P. and others reported at 2023 SCC*

Online SC 947.

Learned counsel appearing on behalf of the State relies on the case diaries and submits as follows. So far as Tamluk PS Case No. 179 dated 25.02.2024 under Sections 341, 195A, 506 (ii) and 34 of the Indian Penal Code read with Section 25 (1) (a) and 27 Arms Act is concerned, the present petitioners are not the accused in this case. There is only one accused by the name of Surajit Bera. However, in the other case, being Tamluk PS Case No. 221 dated 09.03.2024 under Sections 195A, 5406, 120B and 34 of the Indian Penal Code, the petitioners are the accused.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition, the report and the case diaries.

As it has been submitted on behalf of the State that the petitioners are not accused in Tamluk P.S. Case No. 179 dated 26.02.2024, no further order need be passed in respect of the said case.

In the case of *Salib (supra)*, the Hon'ble Apex Court held that Section 195A of the Penal Code would apply to any threat that is given to a witness to give false evidence in Court. It does not apply to a case where the allegation is about giving threats to withdraw a complaint, as in the present case.

It appears that in Tamluk PS Case No. 221 dated 09.03.2024, the other charge imputed is not cognizable. Therefore, in absence of Section 195A of the Penal Code, the

case does not survive as a police case.

In view of the above discussions, Tamluk P.S. Case No. 221 dated 09.03.2024 is quashed.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)