

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 12022 of 2024
Rajkumar Chowdhury

Vresus.

The State of West Bengal & Ors.

For the petitioner : Mr. Moyukh Mukherjee
Mr. Koustav Lal Mukherjee
Mr. Sayantan Sinha
Ms. Sagarika Banerjee

For the State : Mr. Amitesh Banerjee, Ld. Sr. St. Counsel
Mr. Tarak Karan

For respondent nos. 7 to 8 : Mr. Bitak Banerjee
Mr. Subhrajyoti Ghosh...

.....Advocates

Heard lastly on : 02.05.2024

Judgment on : 02.05.2024

Jay Sengupta, J:

This is an application for transfer of investigation in a criminal case.

Report filed by the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The private respondents had mercilessly hit the petitioner's son with a baseball bat on his head. He had to receive treatment in a hospital for about seventeen days. The victim suffered fracture injuries on his head. In spite of this, the case was registered only under Section 307 of the Penal Code. No charge under Section 326 of the Penal Code was imputed. No statement of the victim was recorded under Section 164 of the Code. Even the person who had taken the victim to the hospital from the place of occurrence was not examined. The blood stained apparel was also not seized.

Learned senior standing counsel representing the State denies any allegation of police inaction and submits as follows. The victim was not in a position to give a statement initially. However, now a statement of the victim under Section 161 of the code has already been recorded. Today is the date fixed for recording of statement under Section 164 of the Code of the person who had taken the petitioner to the hospital. Wearing apparel of the victim was thrown away from a running car by the common friends of the victim and the accused.

At this stage, learned counsel appearing on behalf of the petitioner denies that any statement of the victim has been recorded by the police, even under Section 161 of the Code.

There are serious flaws in the manner in which the investigation has been carried out thus far.

As, the son of the petitioner had suffered fracture injuries on his head, inflicted by dangerous means, Section 326 of the Penal Code should have been imputed in the first place. One wonders whether absence of such charges would have had any impact at the time of grant of bail.

It is surprising that no statement of the victim has yet been recorded under Section 164 of the Code.

It also appears that the statement of the person who had taken the victim to the hospital is now being recorded under Section 164 of the Code, after filing of the writ petition.

Moreover, is not enough to say that the blood stain wearing apparel was thrown out of a moving car. If this was subsequently learnt by the Investigating Officer, then why did he not haul up the persons responsible under Section 201 of the Indian Penal Code?

The inept manner in which the investigation has been conducted thus far makes it abundantly clear that same has to be transferred to the another agency.

Let the investigation of the case be forthwith transferred to the Anti Rowdy Section, Kolkata Police, Lalbazar and be carried out by the Officer-in-Charge of the said Section. The investigation shall be monitored by the Joint Commissioner of Police (Crime).

The investigation shall be concluded expeditiously and in accordance with law.

With these observations, the writ petition is disposed of.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)