

May 2, 2024
ADSL 2
Ct. No.14
SG

WPA 12773 of 2024

Debdas Halder

vs.

The State of West Bengal and others

Mr. Rajdeep Majumder

Mr. Moyukh Mukherjee

Ms. Sagnika Banerjee

Ms. Sarmistha Basak

Mr. Souvik Palodhi

... for the petitioner

Mr. Amal Kumar Sen

Mr. Lal Mohan Basu

... for the State

Learned counsel for the petitioner submits as follows.

The petitioner is the Vice-President of Mandal Committee – ZP3 of the opposition political party for Habibpur Mandal 3, Malda. He is also a campaigner for the party, especially for the Lok Sabha Elections to be held on May 7, 2024 at Malda district. Yesterday i.e., on 01.05.2024 at 3 pm a civic volunteer of the locality served a purported notice under Section 160 Cr.P.C. to the petitioner to appear before the office of Malda DD, CID, West Bengal today i.e., on 02.05.2024 at 11 am in connection with Habibpur Police Station Case No.70/2024 dated 26.03.2024 under Sections 143, 353, 186, 188, 447, 307, 506, 120B IPC. So, effectively it is not even a 24 hours' notice. The notice purporting to be one under Section 160 of the Code contains elements of Section 41A Cr.P.C. 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. The notice is also too

short to comply with, especially considering the fact that the petitioner, as his designation would imply, is campaigning for his political party for the ensuing Lok Sabha poll that is to be held on May 7, 2024. Reliance is placed on an unreported decision of this Court dated 09.10.2023 in WPA 24148 of 2023.

Learned counsel for the State denies the allegations and submits as follows. It appears that the investigating agency has considered the petitioner to be a witness in the case and asked him to appear before it in terms of a notice under Section 160 Cr.P.C. This has nothing to do with the schedule of the Lok Sabha Elections.

The portion of the impugned notice which requires the petitioner to give full cooperation in apprehension of the accomplice would necessarily imply that the notice was an accused and not a witness. This is in direct contradiction to the nomenclature of the notice.

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

The State shall be at liberty to issue a proper notice, under Section 160 Cr.P.C. afresh to the petitioner giving a day's time and asking him to comply with the same.

Let the notice be issued after May 7, 2024.

With these observations, the writ petition is disposed of.

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

[Jay Sengupta, J.]

