

01.05.2024
Item No.6
gd/ssd

MAT/948/2023
IA NO: CAN/1/2023, CAN/2/2023
RITWIK BISWAS AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Raghunath Chakraborty,
Mr. Mahaboob Ahmed
..for the Appellants.

Mr. Kaushik Gupta,
Ms. Srimoyee Mukherjee
..for the Proforma Respondent.

1. This intra court appeal by the writ petitioners is directed against the order dated 31.03.2023 in WPA 16033 of 2021.

2. In the said writ petition the appellants had prayed for various reliefs and the first relief prayed for is to quash the Charge-Sheet No.260 of 2018 dated 23.07.2018 filed before the learned Chief Judicial Magistrate, Barasat. The second prayer sought for is to initiate disciplinary action against the erring police officials and for investigation in regard to FIR No.237 of 2018 dated 11.06.2018 to be conducted *de novo*.

3. The learned Single Bench by the impugned order has disposed of the writ petition holding that the remedy of the appellants/writ petitioners against the Charge-Sheet is under Section 173(8) of the Criminal Procedure Code.

4. The finding recorded by the learned Single Bench is legally correct and does not call for any interference.

5. The learned advocate for the appellants relied upon a decision of the Hon'ble Supreme Court in *Bimal Gurung v. Union of India and Others* reported in (2018) 15 SCC 480 and referred to paragraph 53 therein. In the said decision it has been held that in the event, a proper investigation is not carried out and relevant evidence which would have been collected by due care and caution, is not collected, the victim is sure not to get justice on such faulty investigation. In case of faulty investigation, where an accused has been wrongly roped in, he has the right to seek all remedies before court of law for further investigation and a court of law is able to marshal all evidence and capable of discerning truth from evidence on record.

6. The decision, in our view, lays down the legal principle with regard to the manner in which investigation has to be conducted. However, the forum is before the concerned court as rightly pointed out by the learned Single Bench.

7. The learned advocate for the appellants would reiterate that the CCTV footage has to be produced.

8. In any event, these are all matters which the appellants have to agitate before the learned trial

court before which the charge-sheet has been laid. There are several remedies available to the appellants under the provisions of the Code of Criminal Procedure which can be invoked by the appellants.

9. Thus. we find no grounds to interfere with the order passed by the learned Single Bench and the same is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)