

WPA 13324 of 2023

Gopal Chandra Mukherjee
-vs-
The State of West Bengal & ors.

Mr. Jayanta Narayan Chatterjee
Ms. Moumita Pandit
Ms. Jayashree Patra
Mr. Bhaskar Mondal
...for the petitioner
Mr. Tanmoy Khan
Ms. Sangeeta Singh
...for the respondents 6 to 8
Mr. Jayanta Samanta, Jr. Govt Advocate
Mr. Manas Kumar Sadhu
....for the State

It appears that an inadvertent typographical error had crept into the order dated 17.01.2024.

At the 3rd line of the first page of the order, instead of “the State”, it should actually be “the petitioner”.

The inadvertent typographical error is hereby corrected and the order dated 17.01.2024 shall always be read conjointly with this order.

This is an application challenging submission of a final report being No. 220 dated 04.08.2020 in respect of Serampore Police Station Case No. 396 dated 23.08.2015 under Sections 279 and 304A of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the father of the victim deceased. The petitioner’s son suffered death in mysterious

circumstances. When he went out with his motorcycle, he was last seen together with his friends, the accused. Yet, this angle was never properly explored by the Investigating Agency. Although this Court had earlier transferred the investigation to the CID, they too did not do justice to their role as investigators. The Investigating Agency did not even notify the petitioner about the submission of final report. Secondly, it was filed at the time of COVID, so there was a delay in filing the writ petition. No report is available regarding the damage suffered by the motorbike either.

Learned counsel appearing on behalf of the accused private respondents denies the allegations made in the writ petition and submits that the private respondents are absolutely innocent.

Learned counsel appearing on behalf of the State relies on the case diary and submits as follows. Statements recorded of an eye-witness, two of which were under Section 161 of the Code of Criminal Procedure and one under Section 164 of the Code, clearly established that it was a case of hit and run. The victim deceased was hit by a vehicle, which could not be traced. This is quite consistent with the post-mortem report of the victim. There is also a mechanical report present in the case diary regarding the damages suffered by the motorcycle.

The statements of the eye-witness had been consistent and categorical. He appears to have seen the victim deceased going towards a toilet after parking his vehicle and at that

point, a vehicle coming in great speed hit him. He fell down and succumbed to his injuries. It is true that the eyewitness does not say anything about the vehicle belonging to the victim in the statement under Section 164 of the Code. However, in the earlier statement under Section 161 of the Code, he had mentioned about the same.

The version given by the independent eyewitness is absolutely consistent with a post mortem report of the victim deceased.

There is also a mechanical report of the motorbike which supported the chain of circumstances.

Therefore, I do not find any infirmity and inconsistency in the manner in which the investigation has been carried out by the CID.

In view of the above, I do not find any merit in the writ petition.

Accordingly, the same 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.)