

36 21.05.2024

WPA 14504 of 2024

NB Ct. 14

Ram Chandra Rawat
Vs.
The State of West Bengal & Ors.

Mr. Rajdeep Majumder,
Mr. Moyukh Mukherjee,
Ms. Pritha basu,
Mr. Debartha Chakraborty,
Ms. Bhawna Parasramka..
...for the petitioner.

Mr. Swapan Banerjee Id.AGP.,
Mr. Sougata Mitra.
...for the State.

Affidavit of service filed on behalf of the State is taken on record.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner was served with notices under Sections 91 and 160 of the Code of Criminal Procedure. The petitioner has already complied with the notice under Section 91 and produced relevant documents through e-mail. So far as the notice under Section 160 of the Code is concerned, it partakes the nature and character of a notice under Section 41A of the Code, although the petitioner as of now is not an accused in the case. 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.

Learned Additional Government Pleader representing the State relies on the report and submits as follows. As of now, the petitioner is not an accused in this case. However, no proper compliance has been made by the petitioner either of Section 160 or Section 91 of the Code of Criminal Procedure. Ample opportunities were given to the petitioner by sending notices through e-mail. The time that he had prayed for was also granted.

It does not appear that there is anything particularly wrong in the conduct of the Investigating Agency.

However, the portion of the notice which requires the petitioner to give full cooperation in apprehension of the accomplice would necessarily imply that the noticee is an accused and not a witness. Otherwise, the word accomplice would not be used. This is in clear contradiction to the nomenclature of the notice and the submissions of the State as of now that the petitioner is not an accused. In view of the above, the impugned notice is set aside.

The police authorities shall, however, be at liberty to issue a fresh notice to the petitioner under Section 160 of the Code asking him to comply the same within a day.

With these observations, the writ petition is disposed of.

Parties to act on the server copy of this order downloaded from the official website of this Court.

(Jay Sengupta, J.)