

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 14782 of 2023
Rama Mondal
Versus
The State of West Bengal & Ors.

For the petitioner : Mr. Moloy Bhattacharjee,
Ms. Minakshi Ghosh.

For the State : Mr. Sk. Md. Galib,
Ms. Tanwishree Mukherjee.

For the respondent
No. 8 : Mr. Pinaki Bhattacharya,
Mr. Amartya Mohan Bhattacharya.

Heard on : 10.01.2024

Judgment on : 10.01.2024

Jay Sengupta, J:

This is an application alleging police excess in visiting residence of the petitioner at the mid-night to serve notice.

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 is the sexagenarian mother-in-law of the respondent no. 8. The private respondent no. 8 had lodged an FIR being Chinsurah Police Station Case no. 191 of 2023 dated 29.04.2023 under Sections 498A, 406 of the Indian Penal Code against the petitioner and her relatives. On 04.05.2023 at about 3 a.m. without any warrant of arrest or prior notice and without any lady officer accompanying the team, the investigating officer visited the petitioner's house to arrest the aged citizens. Subsequently, representations were made by the petitioner to the police about such excess, but no steps were taken.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The petitioner complainant/victim wife informed the police that a prime accused of this case being the husband was about to leave for Denmark on the very next day. The allegations involved not just Section 498A of the Indian Penal Code, but also Section 406 of the Indian Penal Code. If the accused husband had fled away with the Sridhar articles then the police would have been hauled up for inaction. However, since the case was only under Sections 498A and 406 of the Indian Penal Code, the police could have only issued a notice under Section 41 A of the Code at that stage. This is exactly what was done. The police did not go there either to examine any witness or to arrest any of the accused. Therefore, there was no requirement of having a lady police officer with the team. It is learnt that the accused husband has, in fact, left for Denmark some time later.

Learned counsel appearing on behalf of the private respondents submits as follows. The private respondent no. 8 had an information that the accused husband was to leave for Denmark soon. After obtaining bail, he did leave for Denmark.

It does not appear that the police went to the house of the petitioner either to arrest any accused or to even examine any accused or witness. The only purpose of the visit was to serve a notice under Section 41 A of the Code.

The police would be justified in taking an action of merely serving a notice to the accused at night on a complaint that one of the prime accused might be leaving for another country soon thereafter. Non-service of notice might have been taken as inaction on the part of the police.

It appears that after completion of investigation, a charge-sheet has been submitted. The accused husband has also left for Denmark after obtaining bail.

Therefore, no further order needs to be passed in this regard.

With these observations, the writ petition is disposed of, albeit, without any 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.)