

WPA 16089 of 2024

**Debu Banik
Vs.
The State of West Bengal & Ors.**

Mr. Sayan De
Mr. Kaustav Shome

... for the petitioner

Mr. Ayan Ch. Roy
Mr. Sutanu Chakraborty

... for the State

Learned counsel appearing for the petitioner prays for a direction to transfer the instant case upon an independent investigating agency other than the officers of Ranaghat Police Station to re-investigate the case and reach its finality as the officers have been compromised in the instant case.

Learned counsel further relies on a judgment of the Hon'ble Supreme Court reported in (2016) 4 Supreme Court Cases 160, **Dharam Pal Vs. State of Haryana & Others** which held that:

"23. In the said case, the question had arisen whether a Magistrate can direct for reinvestigation. While dealing with the said issue, the Court has observed:

43. At this stage, we may also state another well-settled canon of the criminal jurisprudence that the superior courts have the jurisdiction under Section 482 of the Code or even Article 226 of the Constitution of India to direct 'further investigation', 'fresh' or 'de novo' and even 'reinvestigation'. 'Fresh', 'de novo' and

reinvestigation' are synonymous expressions and their result in law would be the same. The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has to be exercised by the superior courts very sparingly and with great circumspection."

(emphasis supplied)

"51.... Whether the Magistrate should direct 'further investigation' or not is again a matter which will depend upon the facts of a given case. The learned Magistrate or the higher court of competent jurisdiction would direct 'further investigation' or 'reinvestigation', as the case may be, on the facts of a given case. Where the Magistrate can only direct further investigation, the courts of higher jurisdiction can direct further, reinvestigation or even investigation de novo depending on the facts of a given case. It will be the specific order of the court that would determine the nature of investigation."

Learned counsel also submits that the charge-sheet filed in connection with Ranaghat Police Station Case 341 of 2024 dated 01.05.2024 under Section 341/323/325/506/34 of the IPC bearing C.S. No.317/2024 clearly portrays how the investigating agency in connivance with the private respondents incorporated some minor bailable sections and

concluded the investigation mechanically/hastily to enable the respondents to obtain bail easily and no charges were framed against the private respondents regarding attempt to murder and voluntarily causing grievous hurt with deadly weapon which were attributed to the commission of the heinous offence against the petitioner.

Learned counsel appearing for the State submits that Section 173 sub-Section 8 provides a scope to the petitioner to make an application before the Magistrate and such grievances can be considered by the Magistrate himself.

Heard learned counsel for the parties at length.

As the Charge-sheet has already been filed and Section 173 sub-Section 8 of the Cr.P.C. categorically narrates :

“173. Report of police officer on completion of investigation-..

8. Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in

relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).”

On perusal of the Hon’ble Supreme Court Judgment in Dharam Pal versus State of Haryana & Others (supra) it is a well-settled principle that the power to re-investigate or to direct further investigation or de novo investigation should be exercised by the Writ Court very sparingly and with great circumspection.

Further, in **Madhu Limaye Vs. State of Maharashtra** reported in **(1977) 4 SCC 551**, the Hon’ble Supreme Court observed that the High Courts need to exercise the inherent rights based on the following principles:

“8..... (1) The power is not to be resorted to if there is a specific provision in the code for the redress of the grievances of the aggrieved party.

(2) It should be exercised very sparingly to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

(3) It should not be exercised as against the express ban of the law engrafted in any other provision of the code”.

The Fact remains that the petitioner has not preferred any application under Section 173 sub-Section 8 of the Cr.P.C. and as such alternative remedy is already available to the petitioner who has chosen not to exercise the alternative remedy. Therefore, this Court finds that there is no scope for giving any

direction for further investigation to the appropriate authorities.

With the above direction the writ petition being WPA 16089 of 2024 is disposed of.

No order as to costs.

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

(Rajarshi Bharadwaj, J.)