

18-10-2024
Item No.5 VB
SG/Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.17151 of 2024
Jharna Rani & Ors.

-VVS-
State of West Bengal & Ors.

Mr. Rajdeep Mazumder
Mr. Moyukh Mukherjee
Mr. Pritam Roy
Ms. Aishwariya Bazaz ...for the petitioners

Mr. Swapan Banerjee
Ms. Rupsa Chakraborty
Mr. Soumen Chatterjee ...for the State

Mr. Prasenjit Mukherjee
Md. Shakir ...for the private respondent

Affidavit of service filed in court be taken on record.

The instant writ petition has been filed for transfer of investigation to any impartial/independent agency pertaining to Mahisadal P.S. Case No. 231 of 2024.

Mr. Rajdeep Mazumder, learned counsel appearing for the petitioners, submits that the charge-sheet, thought not filed against the petitioners, but records that upon unearthing of further evidence, the rest of the FIR named accused persons may be charge-sheeted who are the petitioners herein. There is apprehension that further supplementary charge-sheet

may be filed by the investigating agency against the petitioners. During pendency of the present writ petition, the investigating authority has filed the charge-sheet in the case when the investigation undertaken by Mahisadal police station has been challenged. Since the investigation of the case is being carried on motivatedly, hence the same should be directed to be undertaken by an independent impartial agency. He seeks for appropriate orders for transfer of investigation to an independent agency.

Mr. Prasenjit Mukherjee, learned advocate representing the private respondent, submits that the writ petition is not maintainable, since no charge-sheet has been filed against the petitioners. He seeks for dismissal of the writ petition.

Mr. Swapan Banerjee, learned advocate for the State, produces the case diary. He submits that the writ petition is a premature one, since the petitioners are not named in the charge-sheet. Further there is no *prima facie* case made out by the petitioners that investigation has been done motivatedly, save and except that there is possibility of further filing of a second charge-sheet against the petitioners who are FIR named, accordingly the writ petition should be dismissed being devoid of merit.

Report filed by the State in court is taken on

record.

Admittedly, the petitioners have not been charge-sheeted. It is also not in dispute that the investigating agency has submitted charge-sheet recording that the investigation is still on and if any evidence is subsequently unearthed, the rest of the accused persons may be charge-sheeted. Since as on date no such charge-sheet undisputedly has been filed against the petitioners, hence only on the basis of apprehension that a subsequent charge-sheet may be filed against the petitioners does not entail for transfer of investigation to an independent agency. Accordingly, the writ petition seeking transfer of investigation to an independent agency falls short of merit.

Thus, the writ petition stands dismissed.

There shall be no order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Bivas Pattanayak, J]

