

D/L 9
29.11.2024
Kausik
ct.no.35

W.P.A. 21551 of 2024

**Eastern Paper Mills Limited & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Debasish Kundu, Sr. Adv.
Mr. Atarup Banerjee
Mr. Arindam Sen
Mr. Saurav Basu
Mr. Samit Bhanja
Mr. Rajdeep Pramanik

...for the petitioners

Mr. Ayan Bhattacharya, Sr. Adv.
Ms. Subhanwita Ghosh

...for the respondent no. 12.

Mr. Pinak Mitra
Mr. S. Ghosh

...for the respondent no. 7.

Mr. Srijib Chakraborty
Mr. Shrijeeb Biswas

...for the respondent nos. 8 to 10.

Mr. Dipanjan Datta, Sr. Govt. Adv.
Mrs. Paramita Malakar Dutta
Mr. Sk. Md. Masud

...for the state.

Petitioner has approached this court being aggrieved by the manner in which the investigation has progressed in connection with Lake Town PS Case No. 97/2024 dated 10.04.2024.

Mr. Debasish Kundu, learned senior advocate appearing on behalf of the petitioners vehemently challenges the manner in which the investigation has been conducted by the investigating officer of the case and the manner in which the report has been submitted under section 173 of the Code of Criminal Procedure before the jurisdictional court, thereby giving an escape route to all the accused persons.

Learned advocate has drawn the attention of the court to the various documents which have been enclosed and which were not taken into consideration by the investigating agency.

Mr. Bhattacharyya, learned senior advocate appearing on behalf of the respondent no. 12 on the other hand takes a preliminary objection that when alternative remedy is available. this court should not exercise its jurisdiction under Article 226 of the Constitution of India which would in fact, leave the respondents remediless.

Mr. Chakraborty adopts the submissions advanced by Mr. Bhattacharya and submits that the attention of the court was drawn in respect of the judgment of the Division Bench which has been challenged before the Hon'ble Supreme Court and the observation therein is tentative in nature, as such the

same should not be relied upon for arriving at a conclusion.

Mr. Dutta, learned advocate appearing for the state submits that the police authorities have tried their level best in respect of tracing out the original or certified copy of the title deed and inspite of their best efforts, the police authorities could not trace out the said documents, to that effect nothing is available in the case diary.

Be that as it may, the primary duty of a police authority in course of an investigation has been exhaustively dealt with by the Hon'ble Supreme Court in its celebrated judgment in H.N. Rishbud and Inder Singh vs. The State of Delhi (AIR 1955 SC 196). The campus and the ambit of an investigation has been dealt with in the said judgment.

In case the investigating officer, inspite of exercising his due diligence, is unable to recover any document in course of investigation, it is the duty of the investigating officer to record the statement more so in this case where a public servant is responsible for the custody of the document.

Having not done the same, and arriving at a finding that the case is civil in nature, is against the principles of law, as the basic principle is that both

civil and criminal case can go together more so in cases for accusations of forgery.

By exhausting all the methods if the investigating officer comes to a finding that no case has been made out, that would have been a separate option.

There being manifest error in the records, this court feels that the jurisdiction of this court under Article 226 of the Constitution of India is to be invoked for the ends of justice.

Accordingly, the writ petition is disposed of by quashing the final opinion of the investigating officer that the charge sheet so submitted in connection with Lake Town Police Station Case No. 97/2024 being final report no. 209/2024 dated 15.07.2024 that the same is civil in nature is absolutely against the basic norms of criminal jurisprudence.

The investigating officer would carry on further investigation in terms of the aforesaid directions.

With the aforesaid observations WPA 21551 of 2024 is disposed of.

As the writ petition is disposed of, further report be submitted before the jurisdictional court in seisin of the matter.

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

(Tirthankar Ghosh, J.)