

D/L41
28.11.2024
Bpg.
ct.no.35

W.P.A.26380 of 2024

**Nurnehar Bibi Laskar & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Rishabh Ahmad Khan.
...for the petitioners.
Mr. Dipanjan Datta
Ms. Sangeeta Roy
Mr. Sayan Datta.
...for the State-respondents.

Affidavit-of-service filed by the petitioners be
kept with the record.

Petitioners are aggrieved by the fact that the police authorities from the very inception has been acting in the manner which would facilitate the accused persons. To that effect, learned advocate draws the attention of the Court to the formal FIR and submits that the proper sections have not been incorporated in the formal part of the FIR and, as such, the accused persons have been getting the benefit, neither the provisions of Arms Act have been incorporated which is contrary to the powers vested with the police authorities as the written complaint contents specific allegations of carrying fire arms, iron rod and bamboo sticks.

Learned advocate for the State is present and submits that the dispute is between the brother and the sister immediately after the father expired.

I have considered the formal FIR and I am of the opinion that at the stage of investigation the process is dynamic and the right to challenge the section would arise if in a case of non-bailable offence the police authorities have incorporated offences which are said to be bailable offences for facilitating the bail of the accused. Such is not the case. Materials are being collected by the investigating agency, injury reports have been collected. There may be deviation of some sections but until and unless a report under Section 193 of BNS is submitted before the jurisdictional court police would not be able to come to a proper or definite conclusion regarding the applicability of section under the relevant provisions of BNS.

Having considered the same, I am not inclined to interfere with the investigation. However, the investigating officer of the case prior to submission of the report under Section 193 BNS before the jurisdictional court would take the approval/forwarding from a superior officer of the police in the rank of DSP/SDPO who would apply his mind and thereafter grant permission for such report to be filed.

Petitioners have also complained of the private respondents/accused threatening the

petitioners and/or their family members. If a complaint is received from the petitioners, the Inspector-in-Charge, Jibantala Police Station will consider the degree of threat perception of the present petitioners and submit a threat analysis report before the jurisdictional Magistrate in seisin of the matter. Needless to state if there is existing threat perception, according to the finding of the police officers are concerned, appropriate steps under the Witness Protection Scheme, 2018 be taken by the concerned police officers.

With the aforesaid observations, WPA 26380 of 2024 is disposed of.

There will be no order as to costs.

Report so submitted by the State be kept with the record.

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

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)