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Ct 14

WPA 26477 of 2023

Dhruba Saha & ors.

-vs-

The State of W. B. & ors.

Mr. Rajdeep Mazumder
Mr. Moyukh Mukherjee
Mr. Pritam Roy
Mr. Soewel Bhattacharjee
Ms. Triparna Roy

....for the petitioners

Mr. Suman Ghosh
Mr. Siddhartha Ghosh

....for the State

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the workers and leaders of the main opposition party in the State. The State Administration in collusion with the ruling political dispensation does not want to allow the opposition political party to continue with its protest or activities in the particular area. This prompted them to file the instant criminal case. Admittedly, there is a video footage of the entire demonstration. All the local leaders have been falsely implicated in this case.

Learned counsel appearing on behalf of the State relies on the video footage and the report and and submits as follows. Although permission was granted to the protestors to assemble at a nearby place, they blocked the ingress and egress of the police station. When they were asked to leave

the front portion of the police station, the mob turned violent. They forced open the gate and committed offences after coming inside. The forcing open of the gate is evident from the video footage. Several police personnel were injured in the process.

At this stage, learned counsel appearing on behalf of the petitioners submits that the only non-bailable provision in this case is Section 353 of the Penal Code which carries a maximum of 2 years' punishment. Therefore, this is a case where notices ought to be given under Section 441A of the Code. In fact, the petitioners have complied with such notices given by the police. The petitioners would take up all the available points before the Jurisdictional Court and would not proceed with the matter any further.

It appears that the petitioners have already co-operated with investigation by responding to the notices given by the police under Section 41A of the Code of Criminal Procedure. If any further interrogation is required, the same may be done by examining the petitioners through video conference after giving a notice on 48 hours.

No further order need be passed in this regard.

The writ petition is disposed of with liberty granted to the petitioners to take up all the points before an appropriate Court.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

