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Court no. 14
10.01.2024
D.Hira

W.P.A. 26544 of 2023

Biswanath Gupta
-versus
The State of West Bengal & Ors.

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chatterjee,
Ms. Trisha Rakshit,
Ms. Rajarshree Tah,
Ms. Aishwarya Datta.
... for the petitioner

Mr. Amitesh Banerjee, Ld. Senior
Standing Counsel,
Mr. Tarak Karan.
... for the State

A further report filed on behalf of the State is taken on record.

A copy of the same has handed over to the learned counsel for the petitioner.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a reputed businessman of the locality. The private respondent no. 5 happens to be a police officer of the Burdwan Police Station. On 06.11.2023 at about 10 p.m., there was a phone call made to the mobile phone of the petitioner's wife asking the petitioner to go to the police station. The petitioner first thought that it was a hoax call. Next day at noon, some police officers came to the petitioner's house and forcibly dragged the petitioner to the police station. He was illegally detained at the police station and thereafter made to sign blank papers. The police officers are threatening him to part with Rs.30 lakhs. Otherwise, he would be implicated in false cases. The private respondents practically held a Kangaroo Court are issued dictat upon the petitioner. As

would be evidence from the first report filed on behalf of the State, there is a reference to a specific case started pertaining to one Natural City at the Vivekananda College More. Neither the FIR referred nor the charge-sheet contained the name of the petitioner. In respect of another case referred to in the report of the police where the petitioner was named with the FIR and the charge-sheet, he obtained bail. In fact, by an order dated 15.12.2023 recorded by the learned Sessions Judge it was made clear that no case was pending at the Burdwan Police Station as on that date. By a similar order dated 15.12.2023 it was clarified by the State that no police case was pending against the petitioner as on that date. Therefore, there was no occasion for the investigating officer to call the petitioner or his wife. So far as the purported proceeding under Section 34 of the Police Act is concerned, the petitioner inquired with the NGR office and found that a report was submitted there much after filing of the writ petition. That a part, the State could not provide sufficient explanation for the fact that the CCTV footage for the relevant period is not available. Therefore, an adverse prosecution should be taken at the errant police officer. The departmental proceeding ought to be initiated on the erring officer.

Learned senior Standing Counsel appearing on behalf of the State relies on the reports and submits as follows. There is an explanation given about the non-availability of CCTV footage. There was a snag in the camera. It was sent for tests, but the experts could not retrieve the footage. It appears that certain incidents happened in respect of the petitioner which were not necessarily connected ones. Because he allegedly owed money to some others, some cases had been started by the respective complainants. As per the report, when a representative of one such creditor had gone to the petitioner to collect the money, he was allegedly abused. He lodged a G.D. entry. In order to

prevent recurrence of such event the police officer purportedly made a phone call.

In the absence of an FIR or the requirement of a preliminary enquiry to be conducted for registration of the same, the officer need not have made the phone call. But making such phone call is not an act that would warrant a departmental proceeding.

Regarding the next incident of taking the petitioner into custody, the State has been able to provide document that there was a proceeding in terms of Section 34 of the Police Act undertaken on the particular day.

It has also been submitted on behalf of the State that when the petitioner's wife sought help over an issue of creditors coming and pressurizing them, necessary help was rendered.

In view of the above, this Court does not find that the petitioner has been able to make out a case for grant of the relief that he has sought in this writ petition.

Accordingly, the writ petition is dismissed, however, without any order as to costs.

All parties are directed to act on a server copy of this order, duly downloaded from the official website of this Hon'ble Court.

(Jay Sengupta, J.)