

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 27371 of 2023

Rahaman Baidya and another
Versus
The State of West Bengal & Ors.

For the petitioners Mr. Samim Ahammed
 Mr. N. Majhi
 Mr. Arka Ranjan Bhattacharya
 Ms. Gulsanwara Pervin

For the State Mr. Amal Kumar Sen
 Mr. Lal Mohan Basu

For the Respondent No.7. Mr. Soumya Nag

Heard on 08.02.2024

Judgment on 08.02.2024

JAY SENGUPTA, J:

This is an application alleging police inaction and seeking police
protection.

Report filed by the State is taken on record.

A copy of the notice purportedly given by Jibantala Police Station under Section 160 of the Code to the petitioners as filed in Court is also taken on record.

Learned advocate for the petitioners submits as follows. The petitioners had come to know about defalcation of huge sums of money committed by the panchayat authorities in collusion with others in respect of Mahatma Gandhi National Rural Guarantee and other Schemes. They were afraid to bring this to light immediately before the police. So, they directly approach the National Human Rights Commission. The Commission directed an enquiry. The same was done and a totally different picture was given about a family dispute. The Commission did not agree with the same and directed further inquiry. Some local anti social elements had come to know about the issue. They had taken the petitioner No.2 to the office of the ruling political party, scolded and assaulted him. The petitioner No.1 had to flee the place and is unable to return in fear of life. They made complaint to the police authorities, but quite obviously it was not acted upon. After intervention of this Court, a case was registered regarding the assaults done on the petitioners' family members and a notice under Section 160 of the Code was issued to the private respondent. However, the petitioners are unable to go to Jibantala Police Station in fear of life. Pertinently, no FIR has been lodged on the question of embezzlement of fund of MGNREGA and other Schemes. Although a

complaint made before the police authorities did not contain details of the alleged embezzlement, however, it had a reference to the complaint made before the District Magistrate. The complaint made before the District Magistrate is quite comprehensive and it is the duty of the District Magistrate to lodge an FIR if a cognizable case is made out.

Learned advocate for the private respondent denies the allegations made in the writ petition and submits as follows. A complaint made before the police authorities did not contain anything about the alleged embezzlement of fund under the MGNREGA Scheme. Even in the application made before the District Magistrate as annexed in the writ petition, no cognizable case is made out.

Learned senior counsel for the State relies on the report and submits that on the complaint of the petitioners, a specific FIR being Jibantala Police Station Case No.62/24 dated 04.02.2024 under Sections 447/341/323/325/385/506/34 IPC has been registered against the respondent No.7 and others. The same is being investigated. The police are keeping a close watch on the developments in the locality.

It appears that the police have already acted on the complaint of assault and trespass made by the petitioners by registering an FIR. Let the investigation be concluded expeditiously and in accordance with law.

Since the petitioners express fear to visit Jibantala Police Station to respond to the notice under Section 160 of Cr.P.C., let the

investigating officer of the case examine the petitioners at their residence.

So far as the allegations that the petitioners have regarding embezzlement of funds under the MGNREGA and other welfare schemes, they shall be at liberty to file a fresh complaint. The police authorities shall consider the same expeditiously and in accordance with law.

The police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place. Surveillance shall include frequent visits by police patrol.

In the event any untoward incident occurs or is apprehended, the petitioners shall be at liberty to approach local police station who shall then act in accordance with law.

With these observations, the writ petition is disposed of .

As affidavits were not called for, the allegations made are deemed not to have been admitted.

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

(Jay Sengupta, J)

