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Ct No.02
25.07.2024
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Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

WPA No. 1431 of 2024

Dipak Barman
-vs-
The State of West Bengal & ors.

Mr. Hillol Saha Podder
Ms. Mousumi Das

...for the petitioner
Ms. Bedashruti Bose
Mr. Sumit Kumar
...for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the defacto complainant of the case and is the nephew of the prime victim. The accused had severely assaulted the victim with a bamboo pole at the back of his head. This resulted in fracture and blood came out. This is a clear case of attempt to murder apart from being a case of grievous hurt by danger means. Yet, the FIR was registered under Section 117 (2) instead of 118 (2) of the BNS Act. Even Section 109 of the

said Act was not imputed. The lesser sections were purposely imputed by the police so as to enable the accused to get bail.

Learned counsel appearing on behalf of the State denies the allegations and submits that since the injury report was not available, a higher section was not included. Investigation is going on.

An FIR is to be registered on the basis of allegations made in the letter of complaint. The letter of complaint seems to make out serious offences. Afterall, injury was inflicted on the head and it apparently resulted in grave injury. The incident took place on 11.07.2024. Even if, the police had any doubt about the nature of injury, they should have been more pro-active in collecting relevant injury report and properly investigating the case. It does not appear that they have even been able to collect the injury as on the date of report i.e., 22.07.2024.

In the facts and circumstances of the case, the Investigating Agency shall act immediately obtain an injury report of the victim from the hospital, if not already collected and make a prayer before the concerned Magistrate for addition of relevant provisions of law to the existing charges, if the same are found applicable in the instant case. Investigation shall be concluded expeditiously and in accordance with law.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)