

OD - 3

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/96/2024
DR. SANJAY GUPTA
VS
STATE OF WEST BENGAL AND ORS

BEFORE :
THE HON'BLE JUSTICE TIRTHANKAR GHOSH
Date : 19th December, 2024

Appearance :
Mr. Ankit Agarwal, Adv.
Mr. Sujit Banerjee, Adv.
...for the petitioner.

Mr. Jagannath Ganguli, Adv.
..for the respondent nos.5 & 6.

Mr. Debjit Mukherjee, Adv.
Ms. Kalpita Paul, Adv.
..for the State.

The Court : Mr. Agarwal, learned Advocate appearing for the petitioner is aggrieved by the fact that the police authority is soft in investigating the case of Jorabagan P.S. Case No.112 dated 7.7.2024 and submitted charge-sheet under sections 447/506/34 of the Indian Penal Code. The learned Advocate for the State submits that the investigating authority have put in efforts, according to the materials, which surfaced and incorporated appropriate sections.

However, petitioner submits that the investigating agency having not done investigation properly created unnecessary confidence in the mind of the accused

persons who by forming unlawful assembly have entered the house of the present petitioner and threatened in all possible manners for withdrawing the case.

Mr. Ganguli, learned Advocate appearing for the private respondents, submits that as the charge sheet has already been submitted, the petitioner's remedy lies before the jurisdictional criminal court. Mr. Mukherjee, learned Advocate for the State submits the case diary. I have perused the case diary. The police authority recorded the statements under Section 161 of the Code of Criminal Procedure and also conducted an investigation into the accusations made by the petitioner. In fact, eight witnesses have been relied upon by the prosecution to establish its case. Nine persons have been charge sheeted by the investigation agency. Presently, the grievance of the petitioner is that the accused respondents are already encouraged by the outcome of the investigation and, as such, they are still threatening the petitioner. The petitioner, if he feels insecure for alleged threats at the instance of the accused persons shall make an appropriate application under the Witness Protection Scheme, 2018. The degree of threat perception would be analysed and appropriate remedies under the said Scheme be provided to the petitioner.

In view of the report dated 14.7.2024 wherein the officer-in-charge of Jorabagan Police Station contended "It is also to be submitted that the portion of illegal construction made by the Sunita Mallick was demolished by the KMC authority on 3.2.2024 and 7.2.2024 upto their satisfaction" and on the basis of such contention dated 14.7.2024 a co-ordinate Bench by its order dated 1.8.2024 was pleased to observe "From

the report it can be seen that the investigation is in progress and the unauthorised construction was completely demolished by the KMC authority with the assistance of police personnel". This part of the observation in the order dated 1.8.2024, according to the learned Advocate appearing for the petitioner, is not in consonance with the ground reality or is adhering to the contentions advanced by the police authority. The aforesaid part of the order, as submitted by Mr. Mukherjee, learned Advocate appearing for the State, was not in consonance with the ground reality and there were some demolition but may not be complete demolition and, according to him, KMC Authority would be the appropriate authority to make submissions on such issues.

Having considered that the said observation will not have a bearing on the main issues which have been canvassed in the writ petition, I direct the appropriate authority or the court to consider the same.

The writ petition being WPO No.96 of 2024 is disposed of with the following directions :

- (i) The petitioner would apply before the authority under the Witness Protection Scheme, 2018. Appropriate remedy should be provided under the Scheme.
- (ii) The petitioner would be at liberty to canvass the issues regarding addition of sections before the learned Jurisdictional Court already in seisin over the matter by invoking the relevant provisions of the Code.

- (iii) If any information is furnished to the Jorabagan Police Station, it would ensure that no unlawful assembly at the behest of the private respondents be created at the residence or the premises of the present petitioner.
- (iv) The police authorities would keep a strict vigil and would ensure that no breach of peace or tranquillity takes place and/or any untoward incident results because of the inimical relationship existing between the petitioner and the private respondents.

Any observations made hereinabove is for the disposal of the present writ petition and the points canvassed therein. The learned Magistrate will independently consider any application filed at the instance of any of the parties without being prejudiced by any observations made herein.

As affidavit in opposition has not been called from the State or the private respondents, the accusations made against the State and the private respondents are deemed not to have been admitted.

(TIRTHANKAR GHOSH, J.)

