

OD-2

ORDER SHEET

WPO/368/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

CHANDA SHAW
-VS-
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE JAY SENGUPTA
Date : May 10, 2024.

Appearance :

Mr. Biswajib Ghosh, Adv.
Mr. Sumitava Chakraborty, Adv.
Ms. Bratati Pramanick, Adv.
... for the petitioner

Mr. Biswabrata Basu Mallick, Adv.
Mr. Sayan Ganguly, Adv.
... for the State

The Court: Report filed on behalf of the State is taken on record.
Copy of the same is handed over to the counsel for the petitioner.

It does not appear that the private respondents could be served with notice. However, this is a writ petition alleging police inaction and the private respondents are the accused.

Learned counsel appearing on behalf of the petitioner submits as follows. Although an FIR was lodged on the complaint of the petitioner, investigation has not been done properly. No attempt was made to seize the *stridhan* articles. The FIR did contain elements of Section 376 of the Penal Code. The statement under Section 164 of the Code supported the same. Yet, till date the said charge has not been added in the FIR. The accused have

not been arrested although their application for anticipatory bail was rejected by the Sessions Court.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The FIR did make out a *prima facie* case, *inter alia*, under Sections 354 and 354A of the Penal Code. However, investigating agency will look into the matter whether there is any need to add Section 376 of the Penal Code. However, the complainant and his brother are not co-operating with the investigation. Initially a date was fixed for recovery of *stridhan* articles. But, when contacted the phone number of the de facto complainant could not be reached and the brother refused to go for the search and seizure on that date. The phone numbers of the accused have also not been provided by the complainant.

Let the de facto complainant co-operate with the investigation and if required, accompany the petitioner for raid to recover stridhan articles.

The investigating agency shall also explore the possibility of adding Section 376 of the Penal Code to the array of the charges.

Let the investigation be conducted expeditiously and in accordance with law.

With the above observations, the writ petition is disposed of.

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

(JAY SENGUPTA, J.)