

Form No.J(1)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

W.P.A. No. 3402 Of 2025

Sri Anjan Dasgupta

versus

The State of West Bengal & Ors.

For the Petitioner	:	Mr. Riju Ghosh Ms. Shetparna Ghosh
For the State	:	Mr. Sirsanya Bandopadhyay, Sr. St. Counsel Mr. Debopriyo Karan
For respondent no.5	:	Mr. Saptangshu Basu, Sr. Adv, Mr. Pramit Bag Mr. R. Roy Choudhury Ms. Rhiddhima Mukherjee
Heard On	:	24.02.2025 & 03.09.2025.
Judgement On	:	03.09.2025.

Tirthankar Ghosh, J. :

Petitioner is aggrieved by the manner in which the investigation commenced in connection with Baguiati PS Case no. 407/2024 dated 19.07.2024.

The first issue which has been canvassed by the petitioner is relating to the sections which were incorporated at the time of registration of the FIR. Petitioner submits that the same was understated for benefit of the accused. The second contention which has been advanced by the petitioner is by drawing the attention of the Court to the brief facts of the case which has been narrated by the investigating officer in its report under Section 193 of the BNSS. Petitioner contends that the language itself would reflect that the deceased was alive at the relevant point of time when he was shifted to the nursing home. The third contention which has been advanced before this Court on behalf of the petitioner is that at the Barasat District Hospital, the petitioner and his relations were assaulted by the police authorities.

So far as the first issue is concerned relating to the sections being incorporated at the time of registration of the FIR, I am of the view that at the time when a case is registered it may not be possible for the police authorities to assess regarding the far reaching consequences which are possible only at a stage when substantial materials are collected by the investigating agency and there are substance fortifying regarding the higher charges to be incorporated. In this case although the petitioner has ventilated his grievance but the petitioner was never an eye witness to the incident and it is only on the basis of hearsay evidence that the letter of complaint was addressed to the police which is the First Information Report of the instant case.

So far as the contention advanced by the petitioner in respect of the deceased/child being alive, particularly with regard to the version that the child was shifted at Charnock Hospital with the help of on duty police personnel and local public and then he was shifted to Barasat Hospital. The emphasis of the petitioner is on the fact that since the child was alive he was shifted from one hospital to another. So far as this issue is concerned, I am of the opinion that the petitioner is aggrieved, however, the documents collected by the investigating agency, the statement so recorded of the expert particularly, the Medial Experts run contrary. If the petitioner is in possession of any materials, petitioner in course of the trial would be able to adduce the same in course of his evidence before the learned trial Court.

A report under Section 193 of the BNSS is not a substantial piece of evidence but is a summary in which the investigating officer in a precise manner represents in respect of whole of the materials which were collected in course of the investigation. The same cannot be taken as a prima facie material for establishing a case which is diametrically opposite to what has been the finding of the investigating agency. On the contrary, if the petitioner is able to show from the statement of different witnesses that the finding of the investigating officer is contrary to the evidence which is available, in that case this Court obviously would be in a position to interfere in a specific set of circumstances.

The third issue regarding the petitioner being assaulted by the police authorities are different set of incidents from the criminal case which is the main anxiety which has been expressed as would reveal from the prayers in the writ petition. Prayers 'a', 'b' and 'c' referred to the subject matter of the criminal case itself and so far as prayer 'd' is concerned a representation was made to the Commissioner of Police part of which represents misbehaviour, usage of crude language and the petitioner being pushed/manhandled.

To that effect the Commissioner of Police will delegate an officer in the rank of Deputy Commissioner of Police who would assess regarding the accusations and communicate the outcome of the same to the petitioner within 60 days from the date of communication of this order.

So far as the trial of the case is concerned, the learned Chief Judicial Magistrate, Barasat or any Judicial Magistrate in-charge of the case at least would fix one date in every three months so that the proceedings may be taken to its logical conclusion within a reasonable period of time.

With the aforesaid observations WPA 3402 of 2025 disposed of.

Case Diary be returned to the learned advocate appearing for the State.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of the judgement, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)