

24
19.12.2025
Ct. No.5
b.das

WPA 10563 of 2024

Umesh Malpani & Anr.
Vs.
The State of W. B. & Ors.

Mr. Rishav Singh
Mr. Sagar Kr. Mishra
Mr. Soumalya Dutta ...for the petitioners.

Mr. Susovan Sengupta
Mr. Sanatan Panja ...for the State.

Heard learned counsels for the parties.

The petitioners are aggrieved by the mode and manner of investigation held by the police authority. The petitioners lodged a complaint before the police authority against the accused persons wherein it is stated that the petitioner and his wife are joint owners of the property and took loan against that property from G.E. Money Financial Services Pvt. Ltd.

The petitioners were unable to repay the loan for which the matter was referred for arbitration and an award passed by the arbitrator.

To execute the said award, the finance company filed an execution case being Money Execution Case No.59 of 2010 wherein the learned executing Court directed sale of the property for realization of the dues of the finance company.

Since the petitioners had to shift to Nagpur for their business requirements, they executed a Power of Attorney in favour of one of the accused persons whereby the said accused was authorized to receive or agree to receive the consideration for the said sale in respect of the scheduled property and deposit the consideration amount in the bank account of the petitioners.

The petitioners allege that upon execution of the said Power of Attorney the said accused sold out the property in favour of her husband and son for a consideration of Rs.25 lakhs. The amount due from the petitioners was only Rs.8 lakhs. Though the remaining amount was supposed to be transferred to the account of the petitioners, the accused failed to do so and cheated the petitioners of the said amount.

Also, the deed was executed by producing forged Aadhar Card and Pan Card of the petitioner and his wife though the same were not given to the accused by the petitioner at all.

The investigating officer, upon holding investigation, submitted a final report as mistake of facts.

It appears that though in the initial report the investigating officer has admitted that a discrepancy was found in respect of the Aadhar number of the complainant in the sale deed, no step appears to have been taken by the IO in this regard.

Strangely, the accused were found to be absconding but there is no prayer for warrant of arrest. The seizure list demonstrates that only Aadhar Card and Pan Card of the petitioner and his wife were seized and thereafter returned to them upon execution of zimmanama bond. No step was taken by the IO for verification of the original documents with the allegedly forged ones. The several discrepancies and lapses found in course of investigation is indicative of the fact that investigation has not been held in a proper manner.

The relevant documents have not been considered. There was no effort on the part of the investigating officer either to unravel the truth or arrest the accused. The investigation has been held in an extremely slipshod manner and a final report submitted without any relevant consideration whatsoever.

In view of the above, this Court is inclined to hold that the matter needs to be reinvestigated by a specialized agency so that it can be taken to its logical conclusion in accordance with law upon dealing with every issue taken in the complaint by the petitioners.

The matter be reinvestigated by the Criminal Investigation Department under the supervision of the DIG, CID who shall depute a competent senior officer to reinvestigate the matter. The police authority shall hand over the case diary and all other relevant documents to the concerned officer of the CID within 7 days from date.

The CID shall conduct a fair, impartial and unbiased investigation and make all endeavours to sift the truth from the untruth.

The writ petition is accordingly disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

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

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

(Suvra Ghosh, J.)