

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

Present:

The Hon'ble Justice Tirthankar Ghosh

W.P.A. 14774 of 2025

***Ajay Shaw & Anr.
versus
The State of West Bengal & Ors.***

For the Petitioners : Mr. Haradhan Banerjee,
Mr. Partha Pratim Mukhopadhyay,
Mr. Amitabha Pain,
Mr. Suresh Kumar Sahoo.

For the State-respondents : Ms. Sonal Sinha,
Ms. Ashmita Chakraborty.

Heard On : 25.07.2025.

Judgement On : 25.07.2025.

Tirthankar Ghosh, J. :

Affidavit-of-service filed in Court today be kept with the record.

Report submitted by the learned advocate appearing for the State
be also kept with the record.

The petitioners are aggrieved by the inaction of the police
authorities in respect of the representation which was received on
24.03.2025 from one Sanjay Kumar Shaw addressed to the
Commissioner of Police, Barrackpore Police Commissionerate and the

Deputy Commissioner of Police, South Zone, Belgharia Division being not acted upon.

State has submitted a report which reflects that there was a matrimonial dispute consequent to which Baranagar P.S. Case No. 40 of 2025 dated 01.02.2025 under Sections 85/3(5) of BNS was registered for investigation and the police authorities on receipt of the information, proceeded to investigate the case pursuant to directions passed by a court of law. The *de facto* complainant was also accompanying the investigating officer of the case, particularly with regard to recovery of the stridhan articles. However, the same could not be effected as Sanjoy Kumar Shaw and other family members resisted the act of the police authorities.

Subsequently on 10.06.2025, on the strength of a prayer, the investigating officer of the case arranged to recover the stridhan articles. The question of trespass and excesses by the police authorities is found to be incorrect according to the enquiry so conducted. The same has been recorded by way of Baranagar PS GDE No. 734 dated 10.06.2025.

Learned senior advocate appearing on behalf of the petitioners has referred to the case of *Lalita Kumari Vs. Govt. of U.P. and Ors.* reported in (2013) 14 S.C.R. 713 and emphasised by drawing the attention of the Court to paragraphs 6.2 and 7.2 that in case a cognizable offence is made out, the police authorities are bound to register FIR.

This Court during the hearing of writ petition clarified from Mr. Haradhan Banerjee, Learned Senior Advocate whether the paragraphs relied upon by him i.e. paragraphs 6.2 and 7.2 of *Lalita Kumari* (supra) are headnotes/editorial notes available with the original judgment, which were denied as headnotes/editorial notes by the Learned Senior Advocate appearing for the petitioners and emphatically stated to be part and parcel of the original judgment. The said judgment being a celebrated case law of the Hon'ble Supreme Court on the subject, raised curiosity of the Court and as such was cross-checked. On verification of the case law relied upon it was found that the Learned Senior Advocate has only placed the headnotes and editorial part without referring to the original judgment cited (in fact the photocopy of the said document which has been placed on record would speak for itself). In order to obtain a favorable verdict this was uncalled for from a Senior Advocate, particularly when this Court sought for a clarification. The same is in bad taste and obviously destroys the confidence which Courts repose on Senior Advocates.

In this case, the accusation is against the investigating officer including his associates and others. In case the investigating officer in discharge of his official duties is exercising his powers, he is entitled to have a protection under the law.

In fact, under Section 175(4) of BNSS, 2023 as also under Section 223 of BNSS, 2023, the new Sanhita has already provided that the superior officer of the concerned police as well as the accused be given an opportunity to answer before any steps are taken against a public servant. The investigating officer obviously is a public servant. The general proposition which is to be applied, as has been delineated in the celebrated judgement of *Lalita Kumari* (supra) do not lay down the rules which are to be followed in case of public servants except in cases relating to corruption.

Petitioners are already implicated in connection with Baranagar P.S. Case No. 40 of 2025. The accusations of the petitioner no.1 are with regard to intimidation, trespass, outraging the modesty of women as also assaulting the inmates.

Be that as it may, since a remedy has been provided under the law in the BNSS, 2023, as has been observed above, I am of the view that an alternative and efficacious remedy is available to the petitioners. Consequently, no interference is called for by this Court.

With the aforesaid observations, the writ petition being WPA 14774 of 2025 is disposed of.

There will be no order as to costs.

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

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

(Tirthankar Ghosh, J.)