

D/L 113
11.02.2025
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ct.no.35

W.P.A.15867 of 2024

**Shrabani Joarder
Versus
State of West Bengal & Ors.**

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
Ms. Deblina De.
...for the petitioner.

Mr. Suman Ghosh
Mr. Siddhartha Ghosh.
...for the State-respondents.

Ms. Sananda Bhattacharyya.
...for the respondent no.6.

Petitioner is aggrieved by the mode and manner of investigation conducted in connection with Kalyani P.S. Case No.427 of 2024. The allegation of the petitioner being the de facto complainant is that she has been placed in a circumstance whereby she has got to explain the delay in registration of the FIR without any fault on her part and she went to the police station on the same date when the incident took place and she was examined by the doctor on the same date. In spite of that on a subsequent date police authorities entertained the complaint with overwritten dates. Even thereafter FIR was registered after six days. In her complaint, she referred to the name of one accused and 7 to 8 associates who are not known to her. The Investigating Officer also did

not tender the present petitioner for recording her statement under Section 164 of the Cr.P.C.

The investigation has been carried out in a manner which may create an escape route for the present accused who has been made the sole accused and the investigation has also not taken into account the possibility of others being hand in gloves with the sole accused who has been named.

Mr. Ghosh, learned advocate appearing for the State submits that the specific allegations are against the accused who has been named in the charge-sheet, the Investigating Officer has recorded the statement of the witnesses where only one name has surfaced. Learned advocate also insists that the materials collected by the Investigating Officer do not refer to any other accused persons.

However, I find that the charge-sheet incorporates Section 34 of the Indian Penal Code and the said Prasanta Banerjee as the sole accused.

Having considered the medical report, the inconsistency in the investigation particularly in respect of a case of sexual assault where there may be a possibility of others being involved, the Superintendent of Police, Ranaghat Police District would engage a Superior Officer to investigate the case and submit a fresh report under Section 193 of

BNSS/173(8) of Cr.P.C. before the jurisdictional court.

Petitioner would bring this order to the notice of the learned ACJM, Kalyani who would communicate this order to the Superintendent of Police, Ranaghat Police District for taking future course of action, as directed above.

With the aforesaid observations, WPA 15867 of 2024 is disposed of.

There will be no order as to costs.

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

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

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

(Tirthankar Ghosh, J.)