

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
(Appellate Side)

W.P.A. NO 10604 OF 2026

AMRESH BAHADUR AGRAWAL
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner :Mr. Mayukh Mukherjee, Adv.
Mr. Anubhav Rakshit, Adv.

For the State :Mr. Suryaneel Das, Ld. AGP
Ms. Anita Kundu, Adv.
Mr. Bhaskar Bhattacharyya, Adv.

Hearing concluded on : 22.06.2026

Judgment on : 22.06.2026

SAUGATA BHATTACHARYYA, J.:

1. Matter is heard at length in presence of learned advocates representing the petitioner and State respondents.
2. Precisely case is made out in this writ petition praying for direction upon the authorities concerned to follow the order passed by the Additional Chief Judicial Magistrate, Bidhannagar on an

application under section 193(9) of the Bharatiya Nagarik Suraksha Sanhita, 2023 dated 23rd December, 2024 and to furnish report before this Court disclosing steps taken in further investigation being carried out pursuant to said order dated 23rd December, 2024.

3. Sum and substance of contention of the petitioner is in connection with Electronics Complex Police Station Case No. 165 of 2022 dated 21st October, 2022 though charge-sheet was filed against accused persons but that did not satisfy the petitioner being complainant giving rise to a proceeding under section 193(9) of the Bharatiya Nagarik Suraksha Sanhita, 2023 before the jurisdictional Magistrate on filing a petition. Said petition albeit was allowed vide order dated 23rd December, 2024 by giving direction upon the concerned police authorities to conduct further investigation into aforesaid criminal prosecution but in the second round of investigation petitioner is also not satisfied prompting the petitioner to approach this Court with the present writ petition seeking direction to transfer the investigation to Criminal Investigation Department (CID).

4. State respondents are represented by learned Additional Government Pleader and submissions are made.

5. In order to examine the case made out in the writ petition, this Court finds it apt to quote hereinbelow relevant part of the order passed by the Additional Chief Judicial Magistrate, Bidhannagar on application under section 193(9) of the Bharatiya Nagarik Suraksha Sanhita, 2023 dated 23rd December, 2024:-

“I have also heard the IO on dock gave explanation regarding investigation which appears to be not convincing as the IO on dock submitted that he could not avail the relevant documents from the concerned bankers and as such he had submitted charge sheet in this case. I think that the investigation conducted by the IO was half hearted and suffering from so much infirmities as he failed to implicate the bank personal only on the frivolous ground that the complainant did not say anything against them in his W/O.

Ld. APP also submitted in favour of the D/C.

After going through the application, materials on record as well as CD and also hearing the IO, it appears to me that there is substance in the pleadings of the de facto complainant which needs to be addressed.

Hence, the instant petition be and the same is hereby allowed for the ends of proper investigation.

The I.C, BDN(E) PS is hereby directed to conduct investigation afresh by assigning a competent police officer not below the rank of S.I. of police apart from the present I.O. and submit final report by 19.03.2025.”

6. On perusal of relevant part of the order dated 23rd December, 2024, it appears that finding certain flaws in investigation carried out by the concerned authority further investigation was directed by the court below. If petitioner is dissatisfied with the manner of further investigation which is being carried out pursuant to the order dated 23rd December, 2024, in that event petitioner needs to

approach appropriate forum in accordance with law but High Court while exercising jurisdiction under Article 226 of the Constitution ought not to issue mandamus for giving effect to the observations made by the court below in the order dated 23rd December, 2024.

7. Before parting with, it needs to be recorded herein that by order dated 23rd December, 2024 court below directed concerned police authority to conduct investigation by assigning the case to a competent police officer not below the rank of Sub-Inspector of police apart from previous Investigating Officer and to submit final report by 19th March, 2025. That part of the order ought not to be permitted to be assailed before this Court at this stage by filing writ petition as it appears that further investigation started in terms of order of Additional Chief Judicial Magistrate, Bidhannagar dated 23rd December, 2024. Now this Court will not embark upon the issue whether at this stage further investigation to be entrusted to Criminal Investigation Department (CID).

8. In aforesaid conspectus, Court is not inclined to pass order in this writ petition and same stands dismissed.

9. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)