W.P.A. 20087 of 2024

Pappa Saha
Versus
The State of West Bengal and others

Mr. Amit Karmakar
... for the petitioner.

Mrs. Sudipa Banerjee, Jr. Govt. Adv.,
Mr. Koushik Roy
... for the State.

Mr. Sabyasachi Mukherjee,
Mr. Sanabeer Halder
... for the respondent nos.5 to 13.

1. The instant writ petition was filed by the writ petitioner, *inter alia*, praying for a direction upon the Nager Bazar Police Station to act upon a complaint dated 12th June, 2024 lodged by the writ petitioner and to seize C.C.T.V footage of the alleged incident. It appears that after filing of the present writ petition, an FIR being Nager Bazar P.S. Case No.226/24 dated 22.08.2024 was registered for investigation into the offences punishable under Sections 126(2)/115(2)/117(2)/351(3)/3(5) of the B.N.S. of 2023.
2. A Coordinate Bench by an earlier order dated 2ndDecember, 2024 noted that the FIR was registered only after filing of the writ petition. The Court had further directed that the State would hand over to the writ petitioner, a copy of the documents, which the police authorities intend to rely upon in course of the trial.

As regards seizure of the C.C.T.V. footage, the court did not express any opinion at such stage.

3. This Court called upon the Investigating Officer of the case to submit a status report in the matter. It appears that the status report has been filed. The latest status report submitted by the Investigating Officer of the case reveals that after completion of investigation of the said case, a charge-sheet No.305/24 dated 21.10.2024 has been submitted under Sections 126(2)/115(2)/ 117(2)/351(3)/ 3(5) of the B.N.S. of 2023 against 9 accused persons. The status report further reveals that the disputes between the parties are civil in nature and a Title Suit No.244 of 2022 is pending before the 2nd Court of learned Civil Judge (Sr. Division) at Barasat, North 24-Parganas, which is now fixed for *ex parte*hearing.
4. This court has considered the police report and is of the opinion that the Title Suit No. 244 of 2022 is for an absolutely different remedy i.e. for eviction and has no bearing to the criminal offences, if at all committed by the accused persons/respondents.
5. The learned advocate for the petitioner is particularly aggrieved by the fact that the medical documents, which were available to the defacto complainant, were not seized by the Investigating Officer of the case. He is also aggrieved by the fact that the C.C.TV. footage, which continues to be preserved by the defacto complainant, has not been seized, despite requests.
6. On the other hand, learned advocate for the State has submitted that the petitioner never cooperated with the Investigating Agency and did not before the IO appear despite notice dated 28.08.2024 under Section 94 of the B.N.S.S. with the relevant documents. He has also produced a copy of the notice duly signed by

the defacto complainant. Relying upon the acknowledgement of receipt of the said notice, the learned advocate for the State submits that the petitioner has been negligent and has remained uncooperative.

7. The learned advocate for the respondent nos.5 to 13 submits that no further orders can be passed in the present writ petition in view of the fact that the writ petitioner only prayed for registration of the FIR and seizure of the C.C. TV. footage. He submits that the petitioner, in any event, can pray for reliefs before the learned Magistrate, and that the High Court under Article 226 of the Constitution of India should not pass the orders, as prayed for.
8. This court has heard the submissions of the parties.
9. It appears that the notice dated 28th August, 2024 was served upon the petitioner. Whether the petitioner thereafter produced the medical documents and CCTV footage before the Investigating Officer is disputed. This Court does not consider it necessary to resolve that factual dispute in the present writ proceeding. This court, however, does not find any reason why a defacto complainant would not supply documents or materials which would strengthen the case of the defacto complainant in course of investigation.

10. This court is of the view that the materials the petitioner intends to bring on record are relevant to the facts of the case and would only throw light on the alleged offences, if at all committed.

11. The writ petition is disposed of by granting liberty to the petitioner to make appropriate application before the trial court for directing further investigation in

the matter for the purpose of seizure of other credence in the matter, as indicated above.

12. The learned Magistrate is requested to consider such application with utmost expedition and pass appropriate orders. In the event, the application for further investigation is allowed, the trial of the case shall not proceed till such time the further investigation of the case is complete.

13. The writ petition is disposed of with the above observations without any order as to costs.

(Anuj Singh, J.)