09.10.2026
10 Court No. 05
(DL) (Suvendu Mukherjee)

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)

WPA 27085 of 2026

XXXX
–Versus –
The State of West Bengal & Ors.

Mr. Maidul Islam Kayal
Mr. Anisur Rahaman
....for the petitioner

Mr. Arkaprava Sen
Mr. Rajdeep Bhattacharyya
...for the State respondents

Mr. Soumajit Das Mahapatra
Mr. Kingsuk Mondal
Mr. Suman Das
....for the respondent no. 9

1) Affidavit of service filed on behalf of petitioner is taken on record.

2) By presenting this writ petition, learned advocate representing petitioner prays for direction upon respondent authorities to take steps for re-recording statement of petitioner under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, BNSS, 2023") in connection with ongoing further investigation which is being conducted in terms of order dated 5th June, 2026 passed by the learned Judge, Special (POCSO)Court, Berhampore, Murshidabad. In support of such contention, reliance is placed on

representation dated 20 June, 2026 addressed to Inspector-in-Charge, Berhampore Police Station, Murshidabad wherein it was alleged that petitioner under influence of accused and on being pressurized by accused could not disclose actual fact and proper statement could not be recorded under Section 183 of the BNSS, 2023 before the concerned Magistrate which went in favour of accused.

3) State respondents and respondent no. 9 are represented by learned advocates.

4) It is pointed out on behalf of State respondents that further investigation in connection with Berhampore Police Station Case No. 1511/2025 dated 7th July, 2025 is being conducted in terms of order dated 5th June, 2026 passed by the learned Judge, Special (POCSO)Court, Berhampore, Murshidabad. In addition thereto, petitioner previously filed writ petition being WPA 3592 of 2026 which was disposed of by this Court vide order dated 4th August, 2026.

5) According to State respondents, in both the proceedings which were filed before this Court and before the jurisdictional Magistrate by way of filing protest petition there was no demur on the part of petitioner that appropriate statement could not be made under Section 183 of the BNSS, 2023 in the first phase of investigation requiring re-recording of statement before the concerned Magistrate.

6) Learned advocate representing respondent no.9 supports contention raised on behalf of State respondents.

7) Having considered respective submissions made on behalf of parties and on perusal of materials available before this Court, it is found that on concluding investigation in Berhampore Police Station Case No. 1511/25 dated 7th July, 2025 final report was submitted. Petitioner filed protest petition under Section 193(9) of the BNSS, 2023 which was allowed thereby vide order dated 5th June, 2026 learned Judge, Special (POCSO)Court, Berhampore, Murshidabad directed further investigation to be carried out and in pursuance thereto further investigation is being continued.

8) Question arises whether in course of further investigation petitioner is permitted to re-record her statement under Section 183 of the BNSS, 2023 or not once petitioner recorded her statement before the concerned Magistrate during first phase of investigation.

9) Though an attempt is made to persuade this Court based on representation dated 20th June, 2026 that under influence of accused person and on being pressurized and threatened by accused person appropriate statement was not made by petitioner but same is not countenanced since representation dated 20th June, 2026 was not submitted before the police authority at the material point of time and on posing query to learned advocate representing petitioner, no

acknowledgement is produced before this Court in support of submission of such representation dated 20th June, 2026.

10) In addition thereto, though case was made out that due to certain reasons appropriate statement could not be made under Section 183 BNSS, 2023 but to that extent no order was passed by the learned Judge, Special (POCSO)Court, Berhampore, Murshidabad while direction was passed for further investigation vide order dated 5th June, 2026.

11) Moreover, at the time of hearing of writ petition being WPA 3592 of 2026 which was preferred by petitioner previously and disposed of by this Court vide order dated 4th August, 2026 no case was made out that petitioner could not make appropriate statement under Section 183 of the BNSS, 2023 in the first phase of investigation.

12) In view of aforesaid consideration, re-recording statement under Section 183 of the BNSS, 2023 as prayed for in this writ petition, is negated.

13) However, concerned Investigating Officer is directed to expedite further investigation and submit report in either form before the court below at an early date.

14) Writ petition stands disposed of.

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

(Saugata Bhattacharyya, J.)