

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Before:

The Hon'ble Mr. Justice Jay Sengupta

WPA 19726 of 2023

Pallabi Ghosh

Vs.

The State of West Bengal & Ors.

For the Petitioner	:	Mr. Rajdeep Majumder, Mr. Moyukh Mukherjee, Ms. Sagnika Banerjee.
For the State	:	Mr. Somnath Ganguli, Id. AGP., Ms. Priyamvada Singh.
Heard on	:	04.10.2023
Judgement on	:	04.10.2023

Jay Sengupta, J. :

1. This is an application under Article 226 of the Constitution of India, inter alia, praying for a direction to add Sections 326 and 307 of the Penal Code in the FIR registered on 12.08.2023 and to have a fair investigation conducted in the instant case being supervised by the concerned Deputy Commissioner of Police.

2. A further report filed on behalf of the State is taken on record.

3. Copy of an OPD Patient Card of the Medical College and Hospital, Kolkata, as filed on behalf of the petitioner, is also taken on record. A copy of the same is handed over to the learned counsel for the State. Let the Investigating Officer make it a part of the case diary and also obtain a proper copy of the same from the hospital for incorporating the same in the case diary.

4. Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner's mother was appointed as a housemaid by a famous cricketer of the yester years to look after not only the household, but his physically challenged son. The said son and other members of the household were living in the same house. A case was started on 11th August, 2023 under Sections 341, 323, 506 and 34 of the Penal Code where the accused, who are the grandson and the daughter-in-law of the said cricketer assaulted the petitioner's mother. After receiving medical treatment, she was again assaulted by the same accused for lodging the FIR. She was brutally attacked with iron an rod. She received several injuries on her head. There was echymosis on her eye. Three stitches had to be given on her head. In spite of this, an FIR with lesser charges being Shyampukur Police Station Case No.72 of 2023 dated 12.08.2023 under Sections 323, 324, 354B, 509, 506 and 34 of the Penal Code was started. The only reason could be so as to facilitate the accused to get bail. In course of investigation, the Investigating Officer had issued notice under Section 91 of the Code asking the petitioner to produce a copy of the CCTV footages as also the injury report, knowing fully well that the petitioner was a domestic help and would hardly be in a position to arrange for providing

CCTV footage. This is despite the fact that the Investigating Officer had already himself collected the injury report as would be evident from contemporaneous records. The Investigating Officer did not even take the victim for an examination under Section 164 of the Code. Pursuant to a notice issued by the Court, the victim herself went there. The accused are roaming around freely as they have not been arrested by the police. No application has been made for issuance of warrant of arrest. From the copy of the medical document filed today, it appears that the petitioner had suffered a fracture at the left medial wall of jaw. Even after this Court had expressed its displeasure that no application was made for issuance of warrant of arrest, an application for issuance of warrant of arrest was made only after the said order dated 12.09.2023 was brought to the notice of the learned Trial Court by the petitioner. A warrant of arrest has been issued.

5. Learned Counsel appearing on behalf of the State relies on the report and submits as follows. Both the FIRs were promptly registered. The provisions were included as per the medical report. Raids had been conducted for apprehending the accused, but they are absconding. A prayer was also made to examine the victim. In fact, Section 307 of the Penal Code was added in the array of charges for Shyampukur Police Station Case No.72 of 2023. The victim was finally examined under Section 164 of the Code. Several raids were again held to nab the accused and now an application has also been made for issuance of warrant of arrest. The investigation is going on under the supervision of the Deputy Commissioner of Police as directed.

6. I have heard the submissions of the learned Counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

7. Certain infirmities in the investigation were pointed out by the petitioner on the earlier dates. Some of those shortcomings have now being redressed, after intervention of this Court.

8. Proper charges have now been added. Apart from the evidence already collected by the investigating agency, the Investigating Officer shall make endeavour to find out other relevant pieces of evidence. It is reiterated that the Investigating Officer shall collect the medical record dated 15.09.2023 issued to the mother of the petitioner, which shows that there was a fracture in her medial wall of jaw.

9. Let the investigating agency conclude the investigation as expeditiously as possible and in accordance with law under the supervision of the concerned Deputy Commissioner of Police.

10. With these observations, the writ petition is disposed of.

11. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)