

14,15
16.12.2022
ssi
Ct 39

WPA 25522 of 2022
with
WPA 11803 of 2021

Suwendu Adhikari
-vs-
State of West Bengal & ors.

Mr. Rajdeep Mazumder
Mr. Sourav Chatterjee
Mr. Moyukh Mukherjee
Mr. Anish Kumar Mukherjee
Ms. Aishwarya Bazaz

...for the petitioner

Mr. Ashok Kr. Chakraborty, Sr. Adv., ASG
Mr. Sukanta Chakraborty
Ms. Oisani Mukherjee

...for the CBI

Mr. Anirban Ray
Mr. Md. T. M. Siddiqui
Mr. Debashis Ghosh
Mr. Nilotpal Chatterjee
Mr. Rudradipta Nandi
Mr. Debraj Sahu
Mr. Y. Singhi

...for the State

It appears that by an order dated 08.12.2022 passed by a Co-ordinate Bench of this Court (Justice Rajasekhar Mantha) in WPA 25522 of 2022, it was, *inter alia*, directed that the FIRs referred to in the writ petition would remain stayed and the State Police would not register any more FIRs against the petitioner without leave of this Court. It was additionally directed that the writ petition would be heard along with WPA 11803 of 2021.

In the meantime, on 14.12.2022 certain deaths occurred in Asansol during the course of distribution of blankets. The State Police wanted to file a FIR against the

petitioner. However, Justice Rajasekhar Mantha was away holding the Circuit at Port Blair. That is why the State filed an application before the Hon'ble Apex Court. By an order dated 15.12.2022, the Hon'ble Supreme Court referred the matter back to the High Court with a direction that even if the Single Bench who passed the order was not available for work at Kolkata, the petitioner had the remedy of moving the learned Chief Justice of the High Court for appropriate administrative direction. Pursuant to this, the matter was placed before this Bench on the ground of urgency.

Learned Government Pleader representing the State submits as follows. The State has received complaints against the petitioner over the above referred deaths. Therefore, it is praying for leave to register an FIR against the accused including the present petitioner in respect of the same. The accused are liable for such deaths caused due to gross negligence.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had no role to play in the incident that had happened at Asansol. He was a guest in the meeting and left the place of occurrence hours before the incident took place.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the order passed by the Hon'ble Apex Court and the administrative order of placing the matter before this Court.

It appears that no document or material has been placed before this Court by the State by way of formal application to seek leave to file such FIR. This way the present petitioner would also be deprived of getting an opportunity to deny the averments and allegations by using an affidavit.

Therefore, the State is granted liberty to file a formal application praying for leave to file an FIR.

Let the same be filed within a week from this date.

Opposition, if any, shall be filed within a week thereafter.

Reply, if any, shall be filed within a week therefrom.

Let this matter come up for hearing before the regular/appropriate Bench on 10.01.2023.

So, far as the degree of exigency is concerned, it has been informed by the State that UD case/s have been started in relation to the deaths, inquests have been done and post-mortem examinations have been conducted. A preliminary enquiry is also on. Thus, the question of evidence getting lost does not arise.

Therefore, there is no need to pass an interim order to that effect.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

Parties shall act on a server copy of the order obtained from the official website of High Court at Calcutta.

(Jay Sengupta, J.)