

26.02.2024
Sl. No. 21
Suman
Ct.No.238.

WPA 4713 of 2024

Suman De
Vs.
The State of West Bengal and Ors.

Mr. Ratnanko Banerjee, Sr. Adv.
Mr. Sandipan Ganguly, Sr. Adv.
Mr. Somopriyo Chowdhury
Mr. Arunabha Deb
Mr. D. K. Sarkar
Ms. Ashika Daga
Mr. Matri Prasad Das
Mr. Aayush Lakhotia
Mr. Tirthankar Das
..for the petitioner

Mr. Kishore Dutta, Advocate General
Mr. Amitesh Banerjee
..for the State

By filing this writ petition the petitioner has challenged an FIR lodged in connection with Sandeshkhali P.S. Case No. 30/2024 dated 13th February, 2024 under Sections 153/505 of the Indian Penal Code. The relevant complaint was lodged by the sub-inspector of police, Sandeshkhali Police Station.

The relevant part of the complaint is quoted below:-

“It has come to my notice that during the telecast of an episode of “Ghantakanek Sange Suman” in ABP Ananda hosted by Sri Suman Dey on 12.02.2024, it was repeatedly mentioned that while forwarding two arrestees, viz., Susanta Sardar @ Uttam Sardar and Bikash Singh to the Ld. Court of ACJM, Basirhat Court

in c/w Sandeshkhali PS case no. 16/24 dated 07.02.24 u/s 147/148/149/324/325/307/427/435 IPC, Police custody was not sought for the said two arrested persons.

Aforesaid claim and contention of Sri Suman Dey as telecast was completely false and misleading in character which was circulated with intent to cause offence against public peace. The fact is that the I.O. of the concerned case, while forwarding the two arrestees, had submitted a prayer to the Id. Court seeking 10 days police custody for both the arrested accused persons and prayer was duly recommended by OC Sandeshkhali PS and DSP DEB Basirhat PD.

This has been telecast malignantly and wantonly, which is illegal. This has caused grave incitement to a section people which may cause the serious offence of rioting. This news item has already generated resentment among local people against law enforcing agency and people have already started demonstrations against police for not taking proper actions against the lawbreakers, causing serious law and order issues, and caused offence against public peace.

It will be relevant to add that due to such provocative false statement; during a programme on 13.02.2024 (SP Basirhat PD office gherao) by a political part in front of SP Basirhat office; a mob turned violent and started brick batting the police on duty which resulted in injuries to several police personnel.”

Mr. Ratnanko Banerjee, learned senior advocate, appearing on behalf of the petitioner, submits that at about 8.30 p.m., during the telecast of the programme, namely “Ghantakhanek Songe Suman,” it was said by the petitioner that bail prayer of the two accused persons, Sushanta Sardar @ Uttam Sardar and Bikash Singha was not opposed by the police before the Court of Additional Chief Judicial Magistrate, Basirhat Court.

He submits that immediately thereafter, on February 13, 2024 at about 12.45 a.m., 07.03 a.m.,

08.42 p.m., and 11.09 p.m. the petitioner himself and the said news channel repeatedly clarified that the said news was telecast by mistake due to a communication gap between the advocate, who represented one of the accused persons, and the concerned correspondent of the news channel.

He submits that on February 13, 2024 the West Bengal Police through its legal advisor asked for an apology from the petitioner and accordingly, an apology was also tendered on the same day i.e., February 13, 2024.

In the aforesaid circumstances, Mr. Banerjee prays for a stay of the proceedings initiated against the petitioner.

Mr. Kishore Dutta, learned Advocate General appearing for the State, on the other hand, submits that the petitioner has admitted his guilt and the apology tendered by the petitioner cannot absolve him of the offences committed by him.

Mr. Dutta further submits that following the news telecast on February 12, 2024, generated resentment among local people against the police. On February 13, 2024, before the office of the Superintendent of Police, Basirhat, people started demonstrations against police

for not taking proper actions against the accused persons, causing serious law and order issues.

He submits that plain reading of the FIR discloses cognizable offences. Therefore, the Court should not interfere with the registration of the FIR and the investigation.

He further submits that no coercive steps have been taken against the petitioner. Only a notice under Section 41(A) of the Code of Criminal Procedure has been issued against him. The petitioner is entitled to give his response, and in fact, the petitioner also sought for time to respond against such notice. Mr. Banerjee, however, disputes such a fact.

The petitioner has admitted that on February 12, 2024 in the aforesaid programme, "Ghantakhanek Songe Suman" he mistakenly said that the bail prayer of the aforesaid two accused persons was not opposed by the police.

The State does not deny the fact that immediately thereafter, the position was clarified by the said news channel repeatedly on the same date and also on the subsequent date.

I am of the view that in the aforesaid admitted facts the required ingredients to attract Sections 153 and 505 of the Indian Penal Code are not satisfied.

When the petitioner immediately with promptitude clarified the reasons for such a mistake and also sought for an apology, it cannot be said that the said news was telecast “malignantly” or “wantonly” to give provocation to any persons to cause offence of rioting.

A bona-fide mistake in reporting a court proceeding does not constitute the offences under the aforesaid penal provisions.

In dealing with the bail prayer of another journalist this court has already observed that in the current situation in Sandeshkhali the freedom of the presses is crucial. The press must be allowed to function freely without any fear of reprisal or intimidation.

In that view of the matter, there shall be stay of all further proceedings of Sandeshkhali P.S. Case No. 30/2024 dated 13th February, 2024 under Sections 153/505 of the Indian Penal Code for a period of twelve weeks from date.

Let an affidavit-in-opposition be filed by the respondent within four weeks.

Reply thereto, may be filed within two weeks thereafter.

List this matter after twelve weeks under the heading “Hearing”.

(Kausik Chanda, J.)