

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 249 of 2022

Sri Subhash Pal

Petitioner(s)

Versus

The State of Tripura & Ors.

Respondent(s)

For petitioner(s) : Mr. P Roy Barman, Sr. Adv.
Mr. K Nath, Adv.
Mr. S Bhattacharjee, Adv

For Respondent(s) : Mr. D Bhattacharjee, GA
Mr. P Saha, Adv

HON'BLE MR. JUSTICE S. TALAPATRA

Order

24.05.2022

Heard Mr. P Roy Barman, learned senior counsel assisted by Mr. K Nath, learned counsel appearing for the petitioner as well as Mr. P Saha, learned counsel appearing for the respondents.

The petitioner filed one complaint to the Officer in-charge of the Madhupur Police Station which was later on registered as Madhupur PS Case No.2022MDP007 under Sections 326/379/435/506/34 IPC on 06.03.2022. The complaint has been claimed to have been filed on the very day when the offence took place i.e. on 01.03.2022. The petitioner by filing this writ petition has urged for directing the respondents to treat the complaint filed by the petitioner as the First Information Report (FIR) for purpose of investigation and prosecuting the offenders.

Despite the complaint was filed by the petitioner to the Officer-in-charge of the Madhupur Police Station disclosing cognizable offences, no specific case was registered before 06.03.2022. According to the petitioner, the police failed to discharge their duties and to book the accused person on the teeth of time. At the time of filing the writ petition, the petitioner did not have any knowledge that a specific case has been registered after 5/6 days.

The petitioner has stated that he has a rubber plantation spreading over a tract of land measuring about 7 kanis [by local measures] recorded against plots No. 1591, 1592, 1593 and 2208/6865 comprised in khatian No. 2110, corresponding to present plots No. 2211, comprised in khatian No. 2132, present plots No. 1578, 1568, 1622 and 2212 recorded in khatian No. 2097, present plots No. 2210 and 2219 comprised in khatian No. 2117, present plot No. 2201 comprised in khatian No. 2020, situated in Mouja Purathal Rajnagar, Tehsil Madhupur, Sub-Division Bishalgarh, Revenue Circle Bishalgarh, Sepahijala District. The petitioner claimed that he grew the rubber plantation over that land.

The 'deadly' accused persons demanded a sum of Rs. 5,00,000/- from the petitioner and threatened that unless the money is paid they will not allow the petitioner to enter into his

own rubber plantation. The petitioner was severely assaulted on 01.03.2022 by them and as a result he was taken to the Bishalgarh Sub-Divisional Hospital.

The written complaint was filed even though on 01.03.2022 but it was shown to have been filed on 06.03.2022 by the police. The petitioner suffered grievous injuries on 01.03.2022 in the said occurrence. The complaint that has been filed by the petitioner (Anenxure-2 to the writ petition) has disclosed commission of cognizable offence but the Officer-in-charge of the Madhupur Police Station played deviant role and did not register FIR in the earliest.

The ancillary allegations as made against the police are that notwithstanding the filing of the complaint, no receipt was given by the police in violation of the direction of the apex court in ***Lalita Kumari Vs. Government of Uttar Pradesh and Ors.*** reported in ***(2014) 2 SCC 1.***

It has been held in ***Lalita Kumari*** (supra) as under:

“(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be

made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence."

The petitioner's wife, during the period of his treatment, went to the police station to pursue for registration of a specific case. But she was discouraged.

Mr. P Saha, learned counsel appearing for the respondents has denied the allegations levelled by the petitioner and stated that on 02.03.2022 no complaint was received. On 06.03.2022, the said complaint was filed and without delay it was registered.

By the order dated 15.03.2022, the officer in-charge of Madhupur Police Station was directed to file a personal affidavit in this regard.

In the reply filed by the respondents No. 1 to 4, no reason has been furnished at all why the FIR was registered after five days. They have only endorsed the action taken report submitted by the Investigating Officer. The respondent No.5 filed the reply. He has placed a narration to show how he had conducted the investigation. He has contended that there had been no delay in registering the FIR. The day when the complaint was received, FIR was registered and investigation was taken up.

But there are traces to believe that the complaint was received on 02.03.2022, if not 01.03.2022. This kind of practice

by an officer-in-charge of the police station indicates his serious dereliction in discharging the duties or his acting on influence from the outside. In both the cases, the fair investigation becomes the casualty. It is really unfortunate that the other respondents such as the respondent No.3, the Superintendent of Police, Sepahijala District and the respondent No.2, the Director General of Police, Government of Tripura, despite having the constructive knowledge how a police officer (the respondents No.4 & 5) conducted himself, did not take any action for ensuring fair investigation. However, the respondent No.3 asked for the officer-in-charge.

By avoiding to file the specific reply, they have given nourishment to the aberrant police officer. The reply should have revealed to this court what action they had taken as the superiors, when the matter came to their knowledge. It speaks volumes of the organization which the citizens hold as their protector.

This court would have closed this petition simply recording satisfaction that police ultimately registered a case and conducted investigation and within a very short time filed the charge sheet No. 05/2022 on 30.03.2022 under Section 341/323/34 IPC against the accused persons whose names had been disclosed in the action taken report by the investigating officer (para x).

From the communication made by the Officer in-charge of Madhupur Police Station on 09.03.2022 (Annexure-A to the reply) it appears that he received the dispatch from the Superintendent of Police, Sepahijala District in respect of the complaint under reference on 02.03.2020, though the said police officer while reporting to the Superintendent of Police has denied of receiving any such complaint on 02.03.2020. It appears from the said dispatch number that the substance of the complaint was made known to the Superintendent of Police. On direction of the Superintendent of Police, the concerned Officer in-charge of the Madhupur Police Station has reported to the Superintendent of Police (DIB) that he did not receive any complaint on 02.03.2022.

In the face of these records, the Secretary, Home Department, Government of Tripura is directed to hold a high level meeting, preferably with all the Superintendents of Police of the Districts, Inspector General (Law and Order) and the Director General of Police, Government of Tripura to formulate the advisory in terms of the directions contained in para 120.1, 120.2, 120.3, 120.4, 120.5, 120.6, 120.7 and 120.8 of **Lalita Kumari** (supra). Such advisory shall be sent to all police stations for observing the same in letter and spirit. The officers-in charge of the police station shall be directed to supply a copy of the FIR, free of cost and forthwith.

In a series of cases since 2015, this court has been observing, keeping high hopes that the superior authorities of the police would heed and take a correctional course but unfortunately this has not happened so far.

The Secretary, Home Department, Government of Tripura, is further directed to issue such advisory within a period of six weeks from the day when the petitioner shall furnish a copy of this order.

However, a copy of this order be furnished to Mr. Saha, learned counsel appearing for the respondents for onward transmission.

In terms of the above, this writ petition stands disposed of.

No order as to costs.

JUDGE

