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12.10.
2023
Ct. No.17

WPA 24065 of 2023

**Neil Basu
Vs
The State of West Bengal & Ors.**

**Mr. Soham De Dhara
Mr. Sankha Biswas
....For the Petitioner
Mr. Sirsanya Bandopadhyay
Mr. Arka Kr. Nag
Ms. Amritalal Chatterjee
.....For the State**

The petitioner was a member of the Governing Body of Jogesh Chandra Chowdhury Law College by virtue of his post at that point of time as General Secretary of the Students' Union. His allegation is that a large number of illegal acts which includes financial irregularity, forgery and other illegal acts of serious nature were committed by the members of the Governing Body and, therefore, he lodged a complaint with the Charu Market Police Station Kolkata which was not considered and thereafter he filed one application under Section 156 (3) of the Code of Criminal Procedure before the Chief Judicial Magistrate, Alipore, South 24 Parganas which was registered as Case No. Sl. 233 of 2018 and an order for treating the complaint as FIR was passed. By order dated 12.10.2018 the said Chief Judicial Magistrate directed the Officer-in-Charge of Charu Market Police Station to treat the complaint as F. I. R.

Thereafter it was treated as F. I. R. under Sections 406/409/420/467/468/471/120B of the Indian Penal Code being F.I.R. 191 dated 15.11.2018.

On or about 23.09.2022 one final report was filed by the Anti-Fraud Section of Detective Department as the case was transferred to C. I. D. to Detective Department for Investigation. From one report of the S. I. of the Charu Market Police Station produced before the said Chief Judicial Magistrate it appears that the case was taken up for further investigation by the Anti-Fraud Section of Detective Department, Lal Bazar, Kolkata but the subject remained pending but one notice under Section 41A of the Code of Criminal Procedure was served to the accused Smt. Sunanda Goenka.

Learned advocate for the petitioner has demonstrated from the relevant Section 467 of the Indian Penal Code that the minimum punishment is of 10 years and the maximum is life sentence therefore, Section 41A notice was not required to be given to said Sunanda Goenka. However, while police failed to investigate the matter properly all advantage like this (Section 41A notice) which were not required to be given under the law of land to Smt. Sunanda Goenka was given. From pages 52 and 53 which is Annexure 1 of the Final Report Mistake of Fact it is found that though the Anti-Fraud Section got some

information as to the allegation levelled against one Dr. Manik Bhattacharyya, they did not receive any information or they did not get any information by interrogating the said Sunanda Goenka as to her non-involvement in the case. The same is also true about one Jashadeb Chaudhuri. Regarding said Sunanda Goenka this report says that she was recommended as member of the College as per Government Rules and Regulations which was intimated to them by the College Service Commission. It is clearly avoided by the said Anti-Fraud Section as to what were the Government Rules and Regulations. Here the said Anti-Fraud section has acted like a gullible child.

The final report has not been accepted by the court.

The petitioner alleges that he was never intimated by the police authority about filing of the final report, which has been seriously contested by the learned advocate for the State.

However, I am not entering into this question. What is important here is that non-mentioning of the Rules and Regulations of the Government and it is clearly one letter of the West Bengal College Service Commission which has carefully bypassed the issue.

I find that the Anti-Fraud Section has failed to investigate the matter properly and, therefore, considering the prayer (b) and prayer (c) of the writ

application, I direct the Criminal Investigation Department of this State to start investigation of the matter forthwith (i.e. from today itself) and to interrogate Smt. Sunanda Goenka. In respect of Dr. Manik Bhattacharyya today I am not passing any direction because he is already in jail custody in connection with another matter and the allegation made against him in this matter would be looked into by this court at appropriate stage.

I direct the learned advocate for the State and also the learned advocate for the petitioner to communicate the gist of the order as to de novo investigation by the C. I .D. into the Charu Market Police Station Case no. 191 of 2018 dated 15.11.2018, as has been passed by this court today.

One order passed in CRR 3568 of 2019 in the matter of Smt. Sunanda Goenka has been produced before me as well as the case diary. In respect of this CRR 3568 of 2019 there was an order of this court for not taking any coercive step till 05.02.2022 that has expired more than three years ago. Therefore, today there is no impediment for the Investigating Agency if the C. I. D. takes steps forthwith in all respects against the said Smt. Sunanda Goenka.

I direct the State to file a preliminary report before this court on 17th October, 2023 when this matter will be taken up at 1 p.m.

Learned advocate for the State has suggested two names of Investigating Officers on instruction, namely, Atish Chatterjee, Officer-in-charge of Economic Offences Wing to be supervised by Anish Sarkar, SSP, which is accepted by this court, for starting investigation forthwith so that no further delay is caused to the complaint made five years back.

(Abhijit Gangopadhyay, J.)