

(2018) 05 CAL CK 0119
In the Calcutta High Court
Case No : Writ PetitionNo.5088 (W) of 2018

Abir Dutta

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 03-05-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 05 CAL CK 0119

Hon'ble Judges : TAPABRATA CHAKRABORTY, J

Bench : Single Bench

Advocate : Pradip Kumar Ghosh, Sandipan Ganguly, Somopriyo Chowdhury, Arunabha Deb, Kishore Dutta, Amitesh Banerjee, Ipsita Banerjee

Judgement

The petitioner is a journalist and an employee of ABP News Network Pvt. Ltd. (in short, the said company) which runs a bengali news television

channel, namely, ABP Ananda. On 25th March, 2018, the said news channel reported an armed possession which had originated from West Post

Police Station on the basis of a captured video footage. Subsequent thereto, by letters dated 31st March, 2018 and 2nd April, 2018, the respondent

no.4 directed the petitioner to appear in aid of an enquiry.

The petitioner by a letter dated 3rd April, 2018 requested the said respondent to provide the details of the nature of enquiry. In reply thereto, by a letter

dated 3rd April, 2018, it was intimated by the respondent no.4 that for the purpose of verification of a serious allegation, his presence is required.

Thereafter a further letter was issued on 21st April, 2018 asking the petitioner to make himself available before the respondent no. 4 on 30th April,

2018. Aggrieved by the same the petitioner has approached this Court.

Mr. Ghosh, learned senior counsel appearing for the petitioner submits that from

the tone and tenor of the letter dated 21st April, 2018, it would be explicit that the respondent no. 4 was intending to seek explanations from the petitioner as an accused/proposed accused pertaining to some allegations against him and that the presence of the petitioner as demanded would amount to putting him under testimonial compulsion and curtailment of his fundamental rights.

The said notice also does not specify the provision of the Code under which the same had been issued and the intent of the respondents is to harass

him and such action warrants interference of this Court. In support of his contention, Mr. Ghosh has placed reliance upon the judgment delivered in

the case of Lalita Kumari - Vs. - Government of Uttar Pradesh and Others, reported in (2014) 2 SCC 1.

Per contra, Mr. Dutta, learned Advocate-General appearing for the State respondents submits that the existence of a right and the infringement

thereto are the foundations of the exercise of jurisdiction under Article 226. No violation of any such right has been pleaded. The writ petition has

been preferred on an erroneous premise that the petitioner would be heckled and harassed.

He has been asked to appear only to assist the police authorities to conduct investigation on the petition, being West Port Police Station L. P No-

183/17 submitted by the organisers of the procession. In spite of repeated reminders, the petitioner had denied to appear before the police authorities

and has prevented the respondents from ascertaining whether the information furnished reveals any cognizable offence.

In the letter dated 21st April, 2018 it has been stated that the petitioner has made vile and malicious propaganda and in the same it has also been

observed that if the petitioner fails to appear in the police station the authorities would be compelled to initiate necessary proceedings against him.

Prima facie this Court is satisfied that there is justification in the petitioner's perception of threat and that the issuance of a restraining order will

not cause a greater loss and prejudice to the investigating agency than the loss and prejudice, the absence thereof, is likely to cause to the petitioner.

Accordingly, there shall be an interim order in terms of prayer (f) to the writ petition till the end of June, 2018 or until further orders whichever

is earlier. The respondents would be at liberty to file their affidavit-in-opposition

within a week after the Vacation. Reply thereto, if any, be filed within a week thereafter. The parties would be at liberty to mention the matter for final hearing after expiry of the period as fixed towards exchange of affidavits.