

12.04.2023.  
Court No.13  
Item No. 6  
ap

**W.P.A. No. 8841 of 2023**

**Manogya Loiwal  
Versus  
The State of West Bengal & Ors.**

Mr. Billwadal Bhattacharyya,  
Mr. Sabyasachi Chatterjee,  
Mr. Akashdeep Mukherjee,  
Mr. Badrul Karim,  
Mr. Pritam Chatterjee,  
Mr. Soumyadeep Nag,  
Ms. Kiron Sk.  
Ms. Soumali Das.

...For the petitioner.

Mr. Debasish Ghosh.

...For the State.

Affidavit-of-service filed in Court today be taken on record.

The petitioner is a Television Journalist. She is aggrieved by an FIR No. 51 of 2023 dated 7<sup>th</sup> April, 2023 registered by Muchipara Police Station.

It appears from the writ petition that one Shaban Ali filed a complaint with the police against the petitioner that she has given a derogatory speech which brings polarisation in society between two linguistic communities.

It is also alleged in the complaint that such statements would provoke spreading of riot in different parts of West Bengal. It is also complained that the said statements of the petitioner are false, concocted and misleading. Some screen shots of the alleged post on her twitter handle appear to have been seized.

The case diary has been produced before this Court. The statement of the complainant has been considered by this Court. The materials on record do not indicate any clear provocation towards any community. There is no third person other than the complainant, who has stated that he or she is uncomfortable or feels provoked by the said statements of the petitioner.

In the backdrop of the above, the argument of Mr. Bhattacharyya that an attempt has been made to throttle free speech in general and the media in particular cannot be completely brushed aside.

Reference is also made by Mr. Bhattacharyya to the observation of the Hon'ble Supreme Court of India in the case of **Patricia Mukhim - Vs. - State of Meghalaya & Ors.** reported in **2021 SCC OnLine SC 258** particularly paragraphs 11 and 12 thereof.

The scope and extent of Sections 153A, 500 and 505(1)(c) of the Indian Penal Code have been explained and set out. In addition thereto, the dicta of the Hon'ble Supreme Court of India in the case of **Lalita Kumari - Vs. - Government of Uttar Pradesh & Ors.** reported in **(2014) 2 SCC Page 1** also needs to be noticed. Punishment in respect of the Sections under which the FIR has been registered are all less than three years.

Due and appropriate enquiries were required to have been made by Muchipara Police Station before registering the FIR.

It appears from the records that the complaint was made sometime in the evening at 11:40 P.M. and FIR was immediately upon receipt. Clearly no enquiries whatsoever have been made by the Muchipara Police Station.

This Court is, therefore, prima facie satisfied that the registration of the FIR against the petitioner in these facts is seriously questionable.

The media is the fourth and an equally vital pillar of any democracy. The Fourth Estate cannot be curtailed or intimidated. The prima facie illegal FIR will hang as a sword of damocles on the petitioner and may prevent her from pursuing her work.

Hence, FIR No. 51 of 2023 dated 7<sup>th</sup> April, 2023 under Section 120B/153A/505(2) of the Indian Penal Code registered by the Muchipara Police Station shall remain stayed until further orders.

Let affidavit-in-opposition to the main writ petition be filed by the respondents within a period of three weeks from date. Reply, if any, thereto be filed one week thereafter.

List the matter for hearing four weeks hence.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

***(Rajasekhar Mantha, J.)***