

**WPA 24867 of 2024**

**Sri Pankaj Kumar Datta  
Vs.  
The State of West Bengal & Ors.**

Mr. Jayanta Narayan Chatterjee  
Mr. Sirshendu Sinha Roy  
Mr. Debashis Banerjee  
Mr. Abhisek Halder  
Ms. Moumita Pandit  
Mr. S. Naskar  
Ms. J. Patra  
Mr. Bhaskar Mondal

... .. for the petitioner

Mr. Kishore Datta, AG  
Mr. Amitesh Banerjee, SSC  
Mr. Sirsanya Bandyopadhyay  
Mr. Debangshu Dinda

... .. for the State

Mr. Manoj Malhotra  
Mr. Ravi Kumar Dubey

... .. for the respondent no.3

Learned counsel appearing for the petitioner filed supplementary affidavit and the same be kept with the record.

Mr. Chatterjee, learned counsel appearing for the petitioner submits that the petitioner is a retired officer of the Indian Police Service and a President Medal winner and after serving the police department in various posts in the State of West Bengal for a period of more than 30 years, the petitioner retired as the Inspector General of Police (IGP) Railways, West Bengal following his superannuation in the year 2011. On 18<sup>th</sup> September, 2024 a convention was organized by the Presidency University with regard to the protest by the Junior Doctors in connection with the incident of the alleged

rape and murder of a Doctor at R.G. Kar Medical College and Hospital where the petitioner was one of the invitees representing the Civil Society and stated his opinion with regard to the alleged incident of rape and murder of a doctor at R.G Kar Medical College and Hospital. He also mentioned about the lackadaisical investigation conducted by the State Investigating Agency. The petitioner was subsequently informed that a criminal proceeding was initiated by the Burtola Police Station being Burtola Police Station Case No. 149 of 2024 dated 23.09.2024 under Sections 79/352 of the Bharatiya Nyaya Sanhita, 2023 against him based on the false and frivolous complaint lodged by one Ayesha Khan being the respondent No. 3 in the writ petition.

Learned counsel further submits that Section 79 of the Bharatiya Nyaya Sanhita, 2023 states about insulting and provoking a person, with the intention to make such person to commit any offence and Section 352 of the Bharatiya Nyaya Sahita, 2023 states about breaking the public peace, or to commit any other offence. Herrein, the petitioner has not even uttered a single word in the said convention to insult any women and the same is also absent in the impugned complaint dated 23.09.2024 and thus the complaint cannot be said to remotely constitute or attract such ingredients under Sections 79/352 of the Bharatiya Nyaya Sanhita, 2023.

Learned counsel also relies two (02) Supreme Court cases being **S. Khushboo Vs. Kanniammal and Anr.** reported in **(2010) 5 SCC 600** and **Javed Ahmad Hajam Vs. State of Maharashtra and Anr.** reported in **(2024) 4 SCC 156** to conclude his submission and prays for quashing of Burttola Police Station Case No. 149 of 2024 dated 23.09.2024

Learned counsel appearing for the respondent No.3 submits that among other things petitioner has also stated "There is a big Police Station nerby –an incident like this can happen there that goes unnoticed by the Medical authorities, such as heinous diabolical, savage incident can happen-can anybody imagine this-had this been some other place we could have said- had this happened at Sonagachi we could have said this can happen-This kind of incident cannot occur at a place like R.G. Kar-from this we should bear in mind" and that this insulted the modesty of the hapless girls who reside at "Sonagachi".

Mr. Datta, learned Advocate General appearing for the State submits that after the statement made by the petitioner the hapless women of the area have blocked the roads and protested against such statement and as such there is a serious fear of breach of peace and tranquility in the area.

The learned Advocate General also questions the maintainability of the writ petition.

Heard learned counsel for the parties.

This Court after considering the submissions and reviewing the facts presented, does not find sufficient grounds to pass an interim order at this stage. An interim order is generally granted in circumstances where immediate relief is necessary to prevent irreparable harm or to harness any immediate threat or urgency that would justify such an order.

Therefore, at this stage, this Court finds that there is no necessity to pass an interim order quashing the Burtola Police Station Case No. 149 of 2024 dated 23.09.2024 under Sections 79 and 352 of the Bhartiya Nyaya Sanhita, 2023. This Court further asks the respondents to file their affidavit-in-opposition within five (05) weeks, reply, if any, be filed within one (01) week thereafter.

Let this matter again appear in the list on 18<sup>th</sup> November, 2024 under the heading “Adjourned Motion”.

**(Rajarshi Bharadwaj, J.)**