

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

**Present :
The Hon'ble Justice Jay Sengupta**

WPA 20475 of 2023

**Utpal Paul
Vs.
The State of West Bengal and Ors.**

For the petitioner: Mr. Aditya Sen

For the respondent Nos. 9 & 10.: Mr. Partha Chakraborty
Mr. Chayan Debnath
Mr. Muhammad Obaid

For the State: Mr. Ashish Kumar Guha
Mr. Benazir Ahmed

Item No.10

Heard & Judgment on: 22.09.2023

Jay Sengupta, J.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to club three cases started against the present petitioner.

The report filed on behalf of the State is taken on record.

Learned advocate on behalf of the petitioner submits as follows. The petitioner was abducted by the miscreants and a ransom was asked for. He was rescued by the police. But, on the complaint of some of the miscreants, an FIR was started against him, inter alia, alleging cheating and criminal breach of trust. Subsequently two more FIRs were registered against him by the associates of the informant of the first case. The informants are making similar allegations against the petitioner that he owed money for delivery of raw jute. But no investigation was done so far as the case of abduction was concerned. In fact the Investigating Agency filed a misleading report before the learned trial court who was considering the bail application of the accused. Apparently under the impression that the petitioner had been in custody at the relevant point of time, the accused were granted bail. Actually, the petitioner was abducted on 12.07.2023, got released on 14.07.2023 and on 14.07.2023 itself he was arrested in connection with a case of cheating.

The learned advocate on behalf of the State submits as follows. Investigation is going on with full swing in the case of alleged abduction. While the FIR was lodged by an independent person, the statement of the victim was recorded under Section 164 of the Code of Criminal Procedure. Other statements have also been recorded. One of the accused was arrested. The others surrendered and obtained bail.

Learned counsel on behalf of the respondent Nos.9 and 10 submits that no clubbing of the cases of cheating is required as they pertain to separate cause of action.

Clubbing of cases can be done only on the same cause of action and the same facts. If at all, this is to be strictly done in terms of Babubhai versus State of Gujarat & Ors, (2010) 12 SCC 254.

However, in the present case three separate complaints appear to have made by three different informants although having similar allegations. Mere similarity of allegations is not the issue relevant for clubbing of cases. The cases also pertain to different transactions and even the victims are different.

Therefore, I do not find any merit in this petition as regards clubbing of the three cases and accordingly, the same is **dismissed**, however, without costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties on usual undertakings.

(Jay Sengupta, J.)

