

Smt. Ratna Roy vs The State Of Tripura & Others on 14 May, 2026

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HIGH COURT OF TRIPURA
AGARTALA
W.P.(CrI.) No.06/2026

Smt. Ratna Roy

..... Petitioner(s).

VERSUS

The State of Tripura & others

.....Respondent(s).

For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate, Mr. Tirtharaj Dhar, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor. HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO HON'BLE MR. JUSTICE BISWAJIT PALIT Order 14/05/2026 (Per M.S. Ramachandra Rao, C.J.) The petitioner, her husband and her son Saikat Saha reside in Agartala. She and her family are said to be making construction in their premises of a building.

It is alleged that one Ranjana Dey, their neighbor lodged a complaint with the Agartala Municipal Corporation (for short 'the Corporation') and the petitioner was asked to appear before the Asst. Commissioner of the said Corporation on 18.3.2026. She claims that she appeared and explained that the construction was according to approved plan and thereafter no adverse order was passed by the Corporation.

She contended that thereafter one Rabindranath Ghosh, an employee of the Corporation and one Joy Debnath (a Special Police Officer) started visiting the site of the construction and started stopping the construction work. It is alleged that they approached her son and demanded Rs.2 lakhs as illegal gratification and threatened that unless it is paid, construction will not be allowed to proceed.

She alleged that when her son refused to pay the said amount, on 4.4.2026 at 10.45 pm Rabindranath Ghosh, Joy Debnath and others came to her rented house, called out her son, and when he went out, they assaulted and severely beat him up. When she and her husband tried to stop them, they also beat them up. It is alleged that Rabindranath Ghosh also threatened at the time that he would not allow the construction for one year.

It is then alleged that Rabindranath Ghosh and Joy Debnath forcibly took the petitioner's son to the East Agartala Police station (respondent no.4) and in the presence of the police personnel, the petitioner's son was again assaulted, humiliated and tortured. It is alleged that the above two

persons touched her son's private parts and attempted to disrobe him causing him pain, humiliation and mental anguish. It is also alleged that the police personnel present at that time, took no action to protect the petitioner's son and these events were recorded in the CCTV cameras too. She contends that while in the police station, he was also made to sign certain blank papers by the above persons. The petitioner got her son released on bail on 5.4.2026. On 6.4.2026, she lodged a complaint with the Respondent no.5 police station disclosing the above facts and naming the aforesaid accused persons, but it is alleged that the latter did not register an FIR, did not make any arrest and did not make any investigation.

She also made a representation to the Commissioner of the Corporation on 6.4.2026.

On 13.4.2026, she filed applications to the Superintendent of Police, West Tripura and to the Director General of Police, Tripura State, and when nothing happened, she filed this Writ Petition on 29.4.2026. In this Writ Petition she sought (a) registration of FIR against the accused persons named in her complaint dt.6.4.2026 as it disclosed commission of cognizable offences and (b) also sought directions to preserve and secure the CCTV footage of the respondent no.4 Police Station and to ensure that there is no deletion or overwriting of the said footage and other reliefs.

On 6.5.2026, this Writ was listed before this Division Bench on a mention made the previous day by the counsel for petitioner.

On 6.5.2026, the Public Prosecutor accepted notice for all the respondents. He sought time to get instructions.

This court noted that the Writ had been filed on 29.4.2026, and it was inexplicable that the Public Prosecutor of the State could not get instructions even after one week though serious allegations of violation of law were contained in the Writ Petition. It adjourned the case to 12.5.2026 and directed the respondents to file a counter affidavit. It also directed the Chief Judicial Magistrate, West Tripura at Agartala to seize the CCTV footage of the respondent no.4 police station in the meantime.

The Chief Judicial Magistrate, West Tripura at Agartala seized the CCTV footage of the respondent no.4 police station and he was directed by this court on 12.5.2026 to retain it until further orders.

In the counter affidavit filed by the respondents, it is stated by respondents that a preliminary inquiry was conducted after receipt of the complaint through the WSI Nirupa Dey under Section 173 (5) of the BNSS.

When serious cognizable offences were disclosed against the accused persons possibly those under Section 140(2), Section 308 (2) of the BNS, 2023 and assault (Section 130) apart from Section 7 of Prevention of Corruption Act, 1988 some of them inviting punishment of 7 years and above, we are shocked that the procedure of preliminary enquiry under Section 173 (3) of BNSS has been resorted to by the respondents, which they could not have done when serious offences are alleged in the complaint which carry sentence of more than 7 years on conviction. As per the judgment of the Supreme Court in Lalita Kumari v. State of U.P.1 also this cannot be done.

The preliminary inquiry report dt.16.4.2026 itself revealed that the petitioner's son had sustained injuries consistent with physical assault and commission of cognizable offences by Rabindranath Ghosh.

Yet only after this Court entertained the Writ Petition on 6.5.2026, an FIR EAG No 46 was registered against Rabindranath Ghosh and Joy Debnath, that too only under section 117(2) /351 (2) /3 (5) of the BNS on 7.5.2026 without mentioning his alleged demand for illegal gratification made to the petitioner/her son. Why nothing was done between 16.4.2026 till 7.5.2006 is not explained by the respondents.

In fact as per Section 17(3) of the Prevention of Corruption Act,1988 investigation into such an allegation has to be done by a Deputy Superintendent of Police or an officer of equivalent rank. There is not even a reference of investigation of such allegation by the State to such official.

The counter affidavit also reveals that a GD entry (R-13) was made on 4.4.2026 at 2235 hrs that the petitioner's son had threatened the 2012 (4) SCC 1 accused persons on telephone with dire consequences, and so he was arrested at 23.05 hrs by the police and brought to the Respondent no.4 police station. It is stated that he was later released on bail after medical examination which revealed that he was in an intoxicated condition. Strangely, the injuries on petitioner's son consistent with physical assault found in the preliminary inquiry report dt.16.4.2026 however find no place in this medical examination report relied by the State Prosecutor before this court. It only mentions that he has consumed alcohol and nothing else.

FIR EAG No.38 dt.7.4.2026 had been registered against the petitioner's son under section 132 and Section 351(2) of the BNS on a complaint allegedly made by an employee of the Corporation.

In that FIR there is a complaint of obstruction of complainant from discharging his official duty by threatening Rabindranath Ghosh over telephone with dire consequences. It is highly doubtful that Section 132 is attracted to this allegation.

We may point out that the offence under Section 351(2) attracted to the complaint against the petitioner's son is bailable and non-cognizable.

How the respondents could have immediately arrested the son of the petitioner for an alleged telephonic threat by him to Rabindranath Ghosh without following the procedure of issuing notice under Section 35(3) of the BNSS violating the directions of the Supreme Court in Arnesh Kumar v. State of Bihar² is also shocking the conscience of the Court.

The contrast between the actions taken by the respondents against the petitioner's son and those against his alleged assailants is thus stark and very disturbing.

(2014) 8 SCC 273 More importantly, the police personnel who were in the respondent no.4 police station at the time of alleged incident on 4.4.2026 and who are alleged to have done nothing to prevent the alleged incident, have been left scot free by the respondents without even a show cause

notice or suspension pending enquiry under the applicable Service Rules.

We are also not happy with the mere sending away of Joy Debnath from Agartala by his superior officer on 12.5.2026 without even a show cause notice being issued to him for his role in the incident involving the petitioner's son though he was arrayed as a co-accused along with Rabindranath Ghosh in the FIR 46 dt.7.5.2026.

The other contentions raised in the counter affidavit of the respondents appear to indicate prejudging of the issues raised by petitioner in her complaint. In view of the respondents' conduct explained above and taking of such a stand in their counter affidavit, we feel that that it is unrealistic to expect an unbiased investigation from them.

We express our deep dissatisfaction at the manner in which the respondents have handled this matter.

In *Bharati Tamang v. Union of India*³, the Supreme Court held:

"41.3. If deficiency in investigation or prosecution is visible or can be perceived by lifting the veil which try to hide the realities or covering the obvious deficiency, Courts have to deal with the same with an iron hand appropriately within the framework of law.

41.4. It is as much the duty of the prosecutor as of the Court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice.

(2013) 15 SCC 578 : (2014) 6 SCC (Cri) 566, at page 597 41.5. In order to ensure that the criminal prosecution is carried on without any deficiency, in appropriate cases this Court can even constitute Special Investigation Team and also give appropriate directions to the Central and State Governments and other authorities to give all required assistance to such specially constituted investigating team in order to book the real culprits and for effective conduct of the prosecution.

41.6. While entrusting the criminal prosecution with other instrumentalities of State or by constituting a Special Investigation Team, the High Court or this Court can also monitor such investigation in order to ensure proper conduct of the prosecution.

41.7. In appropriate cases even if the charge-sheet is filed it is open for this Court or even for the High Court to direct investigation of the case to be handed over to CBI or to any other independent agency in order to do complete justice. 41.8. In exceptional circumstances the Court in order to prevent miscarriage of criminal justice and if considers necessary may direct for investigation de novo."

(emphasis supplied) In *Dharam Pal v. State of Haryana*⁴, the Supreme Court reiterated:

"24. Be it noted here that the constitutional courts can direct for further investigation or investigation by some other investigating agency. The purpose is, there has to be a fair investigation and a fair trial. The fair trial may be quite difficult unless there is a fair investigation.

25. in a criminal investigation a real and fair investigation, not an investigation that reveals itself as a sham one. It is not acceptable. It has to be kept uppermost in mind that impartial and truthful investigation is imperative. ... If a grave suspicion arises with regard to the investigation, should a constitutional (2016) 4 SCC 160 : (2016) 2 SCC (Cri) 259, at page 169 court close its hands and accept the proposition that as the trial has commenced, the matter is beyond it? ..,"(emphasis supplied) This was also reiterated in Violence in Lakhimpur Kheri (U.P.) Leading to Loss of Life, In re5 by the Supreme Court.

In Amar Nath Chaubey v. Union of India⁶, the Supreme Court held:

"11. The police has a statutory duty to investigate into any crime in accordance with law as provided in the Code of Criminal Procedure. Investigation is the exclusive privilege and prerogative of the police which cannot be interfered with. But if the police does not perform its statutory duty in accordance with law or is remiss in the performance of its duty, the court cannot abdicate its duties on the precocious plea that investigation is the exclusive prerogative of the police. Once the conscience of the court is satisfied, from the materials on record, that the police has not investigated properly or apparently is remiss in the investigation, the court has a bounden constitutional obligation to ensure that the investigation is conducted in accordance with law. If the court gives any directions for that purpose within the contours of the law, it cannot amount to interference with investigation. A fair investigation is, but a necessary concomitant of Articles 14 and 21 of the Constitution of India and this Court has the bounden obligation to ensure adherence by the police."

(emphasis supplied) In view of the reasons given above and in view of the legal position set out above, in order to ensure fair and proper investigation, we therefore direct investigation into the FIR EAG No.38 dt.7.4.2026 and also FIR EAG No No.46 dt.7.5.2026 by a Special Investigation Team headed by an officer of rank of Dy. Superintendent of Police, two or three officials from the (2022) 9 SCC 337 (2021) 11 SCC 804 Tripura Police Crime Branch to be nominated by the DGP, Tripura and the Superintendent of Police of Khowai District under supervision of an officer of IG Rank to be nominated by the DGP, Tripura. No police officer attached to the West Tripura District shall be associated with the investigation.

We hope that at least from now onwards a fair investigation is done by the said team.

The Chief Judicial Magistrate, West Tripura at Agartala who had taken custody of the CCTV footage of the respondent no.4 as per this court's order shall hand it over under proper acknowledgment to the IG of Police who is supervising the investigation into the two FIRs referred supra.

Status report be filed by the IG associated as supervising authority to the above investigation in a sealed cover.

We further deem it appropriate to direct the Agartala Municipal Corporation represented by its Commissioner, who has been impleaded suo moto as respondent No.6, to file a Counter Affidavit.

List the matter on 17.06.2026 before this Bench.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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