

21-06.2019
Court No.3
Sh/05.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 166 of 2019

Shri Tapan Saha. . . Petitioner.
Vs.
The State of W.B. & Ors. . . Respondents.

Mr. Bidhan Barman.
. . .For the Petitioner.
Mr. Subir Kumar Saha.
Mr. M. Rahaman.
. . .For the State.

Affidavit of service filed in Court today be kept on record.

The writ petitioner claims to be a businessman and carrying on the business of hiring and giving heavy vehicles on hire for moving earth and construction materials. He provided two vehicles bearing registration numbers WB 71 A 2475 & WB 73 D 7331 to Rajib Jamal and Dudul Jamal on hire to ply them for their business purpose on condition that they will pay the hire charges of Rs.1,20,000/- per month per vehicle.

It has been further alleged that the Rajib Jamal and Dudul Jamal have defaulted in paying hiring charges of the said vehicle to the petitioner and also they have refused to return the said vehicles to the petitioner.

As such, the petitioner lodged a complaint before the Inspector-in-charge, Matigara police Station by a letter dated 18th March, 2019.

The petitioner alleges that though a complaint has been made to the Inspector-in-charge, Matigara Police Station but the said Inspector-in-charge is not taking any steps on the basis of the complaint made by the petitioner.

Mr. Saha, learned advocate appearing on behalf of the State submits that on the basis of the complaint made by the petitioner on 18th March, 2019 an FIR was lodged vide Matigara Police Station Case No.159/2019 dated 18th March, 2019 under Section 406/420 of the Indian Penal Code.

It has been further submitted by Mr. Saha that one of the vehicles bearing registration no.WB 71 A/2475 has been seized at Panchalia under Bihubar Police Station in the district of Sibsagar, Assam on 4th June, 2019 with the help of Assam Police and the same reached at Matigara police station.

The petitioner has specifically admitted in paragraph 11 of the writ petition that the vehicle bearing registration No. WB 71 A 2475 has been handed over to the petitioner by executing a Zimmanama.

With regard to the other vehicle bearing registration No.WB 73 D 7331, the owner of the vehicle namely, Chandrakanta Chowdhury lodged a complaint against the writ petitioner, which was registered as GDE No.204 dated 04-04-2019 as submitted by the learned advocate for the State.

Mr. Saha further submits that the investigation in connection with the aforesaid two cases are

continuing and as such, it cannot be said that the police authorities have not taken any steps on the basis of the complaint made by the petitioner.

Since FIR was lodged by the petitioner and one of the vehicle has already been recovered and handed over to the writ petitioner and investigation in connection with the other vehicle is continuing, the allegation of the writ petitioner that the police authorities did not take any steps is without any basis, as such, no interference is called for under Article 226 of the Constitution of India.

The instant writ petition is, accordingly, dismissed without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(HIRANMAY BHATTACHARYYA, J.)