

24.02.2020.
Item No. 49

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI.

M.A.T. 45 of 2019

Smt. Birshi Oraon & Ors
Vs.
The State of West Bengal and others.

Mr. Debojyoti Basu,
Mr. Partha Pratim Sarkar,
... for the Appellants.

Mr. Sunil Kumar Sarkar,
... for the respondent No. 15.

Mr. Debabrata Dhar, AGP
Ms. Paramita Sahu,
... for the State.

The writ petitioners approached the learned Single Judge by way of W.P. 18061 (W) of 2018 essentially alleging police inaction. The gist of the grievance was that the police did not take into consideration the relevant provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

The learned Judge recorded the submission made on behalf of the State that the complaints of the writ petitioners were enquired into and necessary chargesheet filed. The learned Judge also noted the submission made on behalf of the private respondents that there are civil disputes between the parties relating to property. The learned Judge dismissed the writ petition observing that since the chargesheet was not on record, proceeding with the writ petition would be in the realm of speculation.

Being aggrieved, the writ petitioners are before us by way of the present appeal.

We have heard learned Counsel for the appellants, learned AGP for the State and learned Counsel for the private respondents.

On our query, we were told that there was some confusion before the learned Single Judge and it was erroneously submitted on behalf of the State that chargesheet has been filed. The fact remains, chargesheet is yet to be filed. This is the basic grievance of the appellants.

We are not inclined to go into the merits of the dispute between the writ petitioners and the private respondents. In any event, sitting in writ jurisdiction, we cannot adjudicate upon such issues.

We are conscious that the writ petitioners may have an alternative remedy in the form of an application before the concerned Magistrate under Section 156 (3) of the Code of Criminal Procedure and we are aware of the decision of the Hon'ble Supreme Court in the case of ***Sakiri Vasu -vs.- State of U.P. & Ors*** reported in ***AIR 2008 Supreme Court 907***. However, it is an established principle of law that availability of an efficacious alternative remedy is not an absolute bar to the maintainability of a writ petition. In a proper case, where the facts and circumstances so warrant, the writ Court may intervene notwithstanding the existence of an alternative remedy.

Having considered the submissions made on behalf of the parties, we are of the opinion that ends of justice would be served if we direct the concerned police authorities to complete the investigation on the basis of the complaints lodged by the writ petitioners and file chargesheet or final report, as the case may

be, within a period of three months from date. Once that is done, the parties shall be at liberty to take recourse to the appropriate provisions of law as they may be entitled to.

Since we have not invited affidavit-in-opposition to the stay petition, the allegations contained in the stay petition are deemed not to be admitted by the respondents.

The appeal and the connected application are accordingly disposed of.

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(Abhijit Gangopadhyay, J.)

(Arijit Banerjee, J.)