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07.07.2021
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**WPA No.5918 of 2021
(VIA VIDEO CONFERENCE)**

Amit Kumar Ghosh
Vs.

State of West Bengal & Ors.

Mr. Suman Sengupta
Mr. Sumitava Chakraborty.
... for the petitioner.

Mr. Mahendra Prasad Gupta.
... for the respondent.

Mr. Sk. Md. Galib
Ms. Subhra Nag.
... for the State.

The petitioner complains of police inaction.

State and the private respondents are
represented.

Learned advocate for the petitioner submits that,
the complaint dated January 27, 2021 made by the petitioner
discloses commission of cognizable offences. He relies upon a
judgment dated August 5, 2016 passed in W.P. No. 8785 (W)
of 2016 (**Dum Dum Ramkrishna & Vivekananda Deva
Pratisthan & Anr. Vs. The State of West Bengal & Ors.**)
and submits that, when the complaint discloses commission of
cognizable offences, it is the bounden duty of the police to

register the same as a First Information Report (FIR) and commence investigation thereon. At the very least he submits that an inquiry should be conducted by the police and on completion of such inquiry, if the police comes across any materials disclosing commission of cognizable offence, the complaint ought to be registered as FIR.

Learned advocate appearing for the State submits that, the police on receipt of the complaint of the petitioner conducted an inquiry. On inquiry, the police learnt that the petitioner is a guarantor in respect of a loan taken by the private respondent from a cooperative bank, which is presently under liquidation. The revival committee of such cooperative bank issued a demand notice upon the private respondent with a copy to the petitioner herein as the guarantor. The petitioner as the guarantor is now complaining that since the private respondent did not repay the loan, such act of the private respondent amounts to commission of cognizable offence and that the police should lodge the complaint as FIR and commence investigation thereon. He submits that, the inquiry made by the police did not throw up any material to suggest commission of any cognizable offence for the police to register the complaint of the petitioner as

FIR. He submits that, the disputes between the private parties are essentially civil in nature. It relates to a loan transaction. It is for the petitioner to raise the issues before the appropriate forum.

In the facts of the present case, the petitioner stood as a guarantor in respect of a loan taken by the private respondent from the cooperative bank. The cooperative bank is under liquidation. The revival committee of the cooperative bank issued a notice to the private respondent demanding repayment of the loan with a copy of such notice being marked to the petitioner herein. As noted above, the petitioner is the guarantor of the loan. The revival committee is entitled to proceed against the petitioner as the guarantor of the loan. The transaction between the cooperative bank and the private respondent and the petitioner herein is one of lender (cooperative bank), borrower (private respondent) and guarantor (the writ petitioner). In such scheme, particularly when the police conducted an inquiry and did not find existence of any cognizable offence for the police to take cognizance of the complaint to the petitioner and proceed thereon, it cannot be said that police are guilty of inaction. Dum Dum Ramkrishna & Vivekananda Deva Pratisthan (supra) is

of the view that where the police on the conduct of a preliminary inquiry is of the view that there is offence committed, which is cognizable, should register the complaint with a FIR. The facts of the present case are different. As noted above, inquiry conducted by the police do not establish commission of cognizable offence.

As a writ Court, dealing with a writ petition complaining of police inaction, the Writ Court is to find out whether or not police exercised their powers in accordance with law or not. In the facts of the present case, the police conducted a preliminary inquiry as noted above. There is no further material on record to suggest that the view taken by the police is perverse.

In such circumstances, I am not in a position to intervene in the present writ petition.

W.P.A. 5918 of 2021 is dismissed without any order as to costs.

(Debangsu Basak, J.)