

S/L 12
15.03.2021
Court. No. 16
suwayan

WPA 6577 of 2021

Debajit Kumar Das
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Avik Dutta
Mr. Syed Julfikar Ali ...Advocates
...for the Petitioner.

Mr. Amal Kumar Sen
Mr. Lalmohan Bose ...Advocates
...for the State.

Mr. Kallol Basu
Mr. Kaushik Chatterjee
Mr. Tirthankar Dey ...Advocates
...for the Respondent Nos.5 to 8.

Affidavit of service filed in Court today, is kept on record.

Both the State and private respondents are represented.

The ninth respondent is not represented.

The writ petitioner claims that he was holding some insurance policies of the ninth respondent. Respondent No.5 is the insurance agent. Respondent Nos.6 to 8 are the employees of the respondent No.5. The writ petitioner claims that serious defalcation of fund for about a sum of Rs.20 lakhs was done at the behest of the respondent Nos.5 to 8 with regard to the insurance policy of the respondent No.9, of which the writ petitioner is the holder.

The writ petitioner claims to have lodged complaints with the relevant police authority, when the police authorities failed to take any steps then the writ petitioner was forced to apply under Section 156 (3) of the Criminal Procedure Code before the jurisdictional Court and pursuant to the direction issued thereunder a First Information Report was prepared and registered on September 28, 2020. Certain charges were levelled in the said FIR. The writ petitioner submitted that, thereafter no step had been taken by the police authority and such inaction being the grievance, is the subject-matter of this writ petition.

Mr. Kallol Basu, learned Counsel appearing for the private respondents raised question of maintainability of the writ petition principally on the ground that the dispute essentially in the domain of the criminal law as the FIR had already been registered and the police authority would take necessary action in accordance with law which is the independent domain of the police authority and this Court in exercise of its power under Article 226 of the Constitution of India should not interfere with the same. The jurisdictional criminal Court would decide on the issue.

Mr. Amal Kumar Sen, learned Counsel appearing for the state submitted that, the concerned investigating officer who had commenced the enquiry since been assigned with the Election Duty, in the ensuing Assembly Election, is not in a position for the time being to proceed with the matter.

However, a new incumbent had come and such officer had taken charge over the matter.

Mr. Sen further submitted that, the erstwhile I.O. had already made necessary correspondence with the private respondents intimating them to disclose the necessary facts and documents as he thought it fit. However, the private respondents had not responded as to the same. Such submission of Mr. Sen had been vehemently opposed and disputed by Mr. Kallol Basu.

After hearing the submission made on behalf of the parties and on perusal the material before this Court, this Court is of the considered view that since the necessary FIR had already been registered, now it is the domain of the relevant police authority to take steps thereunder in accordance with law. Since no affidavit-in-opposition has been used the allegation made in the writ petition are deemed not to have been admitted by the respondents.

Mr. Sen on instruction further assured this Court that whatever steps are required to be taken by the police authority in accordance with law, such steps would be taken as expeditiously as possible.

In view of the facts of this case and the submissions made on behalf of the parties, this court is of the view that the question of maintainability of the writ petition raised on behalf of the private respondents does not require to be addressed at this stage.

In view of the above discussions and the reasons stated present writ petition being WPA 6577 of 2021 stands disposed of.

There shall, however, be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Aniruddha Roy, J.)