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12.5.
2021

W.P.A. 10492 of 2021
(Via Video Conference)
Indranil Roy

-vs-

The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee,
Mr. Munshi Asiq Elahi ,
Ms. Madhurima Sarkar

.... for the petitioner.

Mr. Abhijit Ganguly

.... For the respondent

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The instant writ petition the petitioner has prayed
for the following reliefs :

- a) A writ in the nature of Mandamus commanding the concerned respondents being respondent Nos.2, 3 and 4 to ensure petitioner's peaceful life at the exclusion of the mental and physical torture of the respondent No.5 and 6 by removing the respondent No.5 and 6 from the residence of the petitioner to save the petitioner from false implication of proposed criminal charges;
- b) A writ in the nature of Mandamus do issue commanding the Police Authorities to initiate a criminal case against the respondent No.5 and 6 for perpetrating the physical and mental torture upon the petitioner;
- c) A writ in the nature of Prohibition restraining the private respondent No.5 and 6 from disturbing the petitioner's peaceful life at the above mentioned address at the exclusion of the physical and mental torture inflicting by the respondent No.5 and 6;

- d) A writ in the nature of mandamus directing the concerned police authorities to treat the instant complaint dated 30.04.2021 as FIR against the respondent No.5 and should take steps to investigate the criminal proceeding and to file Charge Sheet as expeditiously as possible;
- e) Rule NISI in terms of prayer(a), (b), (c) & (d) herein;
- f) An interim order of direction directing Police Authorities or any other responsible authorities to conduct an enquiry on the basis of the complaint filed by the petitioner and to ensure the peaceful life of the petitioner during the pendency of the writ petition;
- g) Any other further order or orders as to Your Lordships may deem fit and proper;

The petitioner is a legally married husband of private respondent no 5. Private respondent no. 6 is father- in-law of the petitioner. According to the petitioner his marriage was socially solemnized on 19th January, 2016. However, their marriage was registered on 18th July, 2014. After marriage due to matrimonial discord the relationship between the parties was not cordial. The petitioner being tortured and harassed by private respondent no. 5 , his wife, compelled to file a suit for divorce against the respondent no. 5. He also lodged a complaint before the Inspector-in-Charge, Sonarpur P.S.

against his wife complaining unlawful harassment and torture by her and her father. The petitioner was threatened to implicate him a criminal case. It is alleged by the petitioner that the respondent no. 5 and her minor son are residing in the house of the petitioner. She filed a complaint before the local police Station under Sections 498A/406/506 of Indian Penal Code . Therefore, the respondent being the husband of the respondent no.5 prayed for issuance of writ in the nature of mandamus directing the police authorities being respondent nos. 2 to 4 to ensure petitioner's peaceful life at the exclusion of the mental and physical torture by the respondent no. 5 and 6 by removing them from the residence of the petitioner.

At the outset, I am constraint to say that above prayer is not maintainable in law because under the provisions of Protection of Women against Domestic Violence Act, 2005 the respondent no 5 being the wife had the right to stay at her matrimonial home as there was household of the party. No order can be passed against the statute. The prayer is made against the statute and accordingly the entire writ petition is not maintainable and the same is summarily rejected.

(Bibek Chaudhuri, J.)