

**23.07.2021**

Ct. No.13

Sl. No.97

pk/akd

**W.P.A. 10855 of 2021** [via video conference]

*[Sabana Bibi -Vs- The State of West Bengal & Ors.]*

Ms. Minoti Gomes

Mr. Partha Sarathi Das

Mr. Parashar Baidya

... .. for the petitioner

Mr. Jahar Dutta

Mr. Bipin Ghosh

... .. for the State

Md. Sarwar Jahan

... .. for respondent no.11

Learned counsel for the petitioner has lodged complaint with the Officers-in-charge, Cossipore and Bhangore Police Stations against her husband who she alleges has tortured her and has since deserted her. It is also submitted that the husband has married for the second time.

Md. Sarwar Jahan, learned counsel appearing for the respondent no.11-husband submits that the writ petitioner had, while living with him, voluntarily left the house after a love affair with a third person. It is also submitted that three children were born out of the wedlock between the petitioner and the husband, are in the custody and care of the husband. It is also submitted that the husband has filed proceeding for divorce in Title Suit No.466 of 2021 which is now pending before the Additional Civil Judge (Junior Division), Alipore. The said suit was filed on 17<sup>th</sup> March, 2021.

It transpires from the records that on 5<sup>th</sup> March, 2021 the husband has undertaken in writing before the Cossipore Police Station that the husband would continue to take care of the

petitioner and if necessary, he would keep his second wife in separate residence.

This Court cannot go into the propriety of the allegations and counter allegations made by the husband and wife against one another. The Officer-in-charge, Cossipore Police Station has given instructions dated 23<sup>rd</sup> July, 2021 to the learned advocate for the State that repeated attempts were made to contact the petitioner since after receiving her complaint, which was duly diarised in accordance with law.

Since the petitioner is represented before this court, she will at the earliest time visit the Officer-in-charge of the concerned police station where her statements shall be recorded and steps shall be taken under the Code of Criminal Procedure in respect of the petitioner's complaint.

Insofar as the maintenance of the petitioner is concerned, the Code of Criminal Procedure under Section 125 provides for such remedies to be exercised by the petitioner in accordance with law.

There are also provisions under the Domestic Violence Act of 2005 that the petitioner can avail. Since the petitioner says that she is illiterate and indigent, she may avail legal aid services of the District Legal Services Authority, South 24-Parganas.

It is submitted that the respondent no.12, the father of the respondent no.11-husband has died in the year 2000 itself. Hence, the name of the respondent no.12 shall be struck off from the records of the writ petition.

With the aforesaid observations, the writ petition is disposed of.

The instructions dated 23<sup>rd</sup> July, 2021 issued by the Cossipore Police Station is taken on record.

There shall be no order as to costs.

All parties are to act on a server copy of this order duly downloaded from the official website of this court.

***(Rajasekhar Mantha, J.)***