

06.
20.09.2021.
Ct. No. 11.
F.B.

**FMA 847 of 2021
with
IA No. CAN 1 of 2021**

(Via Video Conference)

**Sankar Maity
-Vs.-
The State of West Bengal & Ors.**

**Mr. Anindya Bose
..... For the Appellant.**

**Mr. Soumitra Bandyopadhyay,
Mr. Ramchandra Guchhait
..... For the State.**

Party/Parties is/are represented in the order of
their name/names as printed above in the cause title.

Mr. Anindya Bose, Learned Counsel, appears for
the appellant.

The State Respondents are represented by Mr.
Ramchandra Guchhait, Learned Counsel led by Mr.
Soumitra Bandyopadhyay, Learned Senior Government
Advocate.

Under challenge in this appeal is the order dated
12th of July, 2021 in the writ petition being WPA No.
10794 of 2021.

By the said impugned order the Hon'ble Single Bench held that the dispute raised in the writ petition is a purely private contractual dispute between the writ petitioner/the appellant and the private respondent nos. 5 and 6 to this appeal and therefore the Hon'ble Single Bench found no *criminal angle* in the grievance of the writ petitioner/the appellant.

Accordingly, the Hon'ble Single Bench stopped the investigation by the police on the complaint of the writ petitioner/the appellant which had already been registered as Gosaba P.S Case No. 156/20 dated 13th of October, 2020 under Sections 420/406 IPC. The Hon'ble Single Bench further directed the parties to pursue their remedies before the appropriate civil court.

Mr. Bose, Learned Counsel, draws the attention of this Court to the instructions of the Officer-in-Charge, Gosaba Police Station dated 30th of June, 2021 addressed to Learned State Counsel, which is part of the record. The instruction, *inter alia*, states that the complaint relates to supply and distribution of goods and the payment connected thereto between the appellant and the private respondent nos. 5 and 6. The police have recorded statements under Section 161 CrPC of the parties and have also prepared a seizure list along with documents connected to the alleged damaged goods.

The report of the Officer-in-Charge, Gosaba P.S concludes that the Investigating Officer of the case has also served notice under Section 41A CrPC to the private respondent nos. 5 and 6 and the investigation of the case is proceeding.

Although, Mr. Guchhait, Learned State Counsel, emphatically submits that the Hon'ble Single Bench is correct in holding that the dispute between the parties be referred to a civil forum, this Court is of the view that taking into consideration the report of the OC, Gosaba PS dated 30th of June, 2021 (*supra*) disclosing that the investigation in the criminal complaint is proceeding, the Hon'ble Single Bench could not have concluded that the matter be referred to a civil forum at a stage when the report of the Gosaba P.S. is still tentative on the issue and notices have been issued under Section 41A CrPC.

Accordingly, in view of the discussion above, the order impugned of the Hon'ble Single Bench dated 12th of July, 2021 stands set aside.

This Court makes it clear that it has not gone into the merits of the police investigation.

It is also made clear that once the police investigation concludes on its own merits, it would be

open to the parties to ventilate any grievance before the appropriate court/forum.

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stand thus **disposed of**.

In view of the above discussion, affidavits are neither necessary, nor invited. Allegations made stand to be denied and disputed.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Kesang Doma Bhutia, J.) (Subrata Talukdar, J.)