

09.08.2021.
Item No. 86.
Court No.13
ap

**W.P.A. No. 12063 of 2021
(Through Video Conference)**

**Rina Shaw
Versus
The State of West Bengal & Ors.**

Mr. Kallol Mondal,
Mr. Krishan Ray,
Ms. Amrita Chel.

..For the petitioner.

Mr. Anirban Ray, Id. G.P.
Mr. Raja Saha,
Mr. Avishek Prasad.

...For the State respondents.

Mr. Lokesh Sharma,
Mr. Rachit Lakhmani,
Mr. Rama Kant Sharma.
Mr. Nikunj Berlia.

...For the respondent no.5.

Affidavit-of-service filed in Court today by the
Counsel for the petitioner be taken on record.

Counsel for the petitioner submits that initially a
complaint was sent to Jorabagan Police Station as
regards certain insults and abusive language used by
the private respondent against the petitioner. He
further submits that when the said police station
refused the FIR, it was sent by e-mail and yet no steps
have been taken and hence the petitioner is aggrieved
by the same.

The text of the complaint is not set out
hereunder since the same is contained at pages 24
and 25 of the instant writ petition.

Counsel for the State, Mr. Raja Saha, submits that there are large number of civil disputes in respect on the title to the property between the private respondent and certain other persons. He further submits that probate proceedings are also pending in respect of the said property before this Court.

On relevant date, on 9th June, 2021, it is submitted that the petitioner, who was nowhere connected with the property or the dispute, had approached the said private respondent and the guards of the private respondent at the said premises. The petitioner resides far away from the property.

It is submitted that when the representative of the private respondent asked the petitioner to disclose her identity a hot altercation between the petitioner and the guards of the private respondents.

Jorabagan Police Station upon coming to know of the incident, immediately reached the spot and found that there was indeed a hot altercation.

Jorabagan Police Station did not find any reason to register FIR since after the enquiry they found that there was no evidence to substantiate the allegations in the complaint. It is suspected that the petitioner may have been set up by section of owners of the property to unleash vendetta against the others.

It is further submitted that the private respondent and the contesting claimant to the said

property have registered complaints against one and another and the same are pending investigation. FIR No. 121 dated 03.08.2020 under Sections 381/408/120B of the Indian Penal Code and FIR No. 78 of 2021 under Sections 380/461/34 of the Indian Penal Code are pending.

Counsel for the petitioner submits that in terms of the decision of the Hon'ble Supreme Court in the case of Lalita Kumari (supra), the police was obliged to forthwith register an FIR immediately after receipt of a compliant.

This Court is not convinced that the complaint of the petitioner, in the given facts and circumstances is at all bona fide. The petitioner had a remedy in terms of Section 156(3) of the Code of Criminal Procedure in terms of the decision of the Hon'ble Supreme Court of India in the case of **Sakiri Vasu – Vs. – State of UP** reported in **(2008) 2 SCC 409**, which has not been availed.

In that view of the matter, this Court does not see any inaction on the part of the police. Hence, the instant writ petition must fail and is hereby dismissed.

The instructions of the Officer-in-charge, Jorabagan Police Station dated 4th August, 2021 along with the G.D. Extracts are taken on record.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(*Rajasekhar Mantha, J.*)