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17.11.2021.
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 17466 of 2021

Kanishk Sinha & Anr.
-vs.-
The State of West Bengal & Ors.

Mr. Kanishk Sinha
...petitioner no. 1 in person

Mr. Soumendra Nath Mookherjee,
Mr. Tapan Kumar Mukherjee,
Mr. Himadri Sikhar Chakraborty,
Mr. Sutanu Chakraborty
...for the State

It is submitted by petitioner no. 1, appearing in person with leave of court, that the relief claimed in the writ petition can very well be granted by this Court.

On the other hand, learned counsel appearing for the respondent no. 1 contends that the nature of the reliefs sought in the writ petition cannot be granted by this Court, since this Court does not have territorial jurisdiction to take up the matter in view of the cause of action regarding lodging of First Information Report having occurred in the State of Bihar. It is further submitted that the second petitioner is not an Indian citizen and, as such, the writ petition is not maintainable at the behest of the petitioner no. 2.

In controverting such contention, the petitioner no. 1 submits that the prayer (b) of the writ petition also arises within the territorial jurisdiction of this High Court and the State of West Bengal has been impleaded as respondent no. 1 in the writ petition.

However, it appears from relief (b) of the writ petition, which is the pivotal relief sought, that the petitioner, in effect, seeks a declaration that the Court of Judicial Magistrate has no jurisdiction to try/enquire and/or register any case under Sections 14A, 14B and 14C of the Foreigners Amendment Act, 2004, as mandated under Section 3 of the Foreigners Act, 1946. It appears *prima facie* that such a declaration cannot be granted in the garb of a writ of mandamus.

However, the petitioner no. 1, at this juncture, seeks liberty to file a fresh writ petition challenging the *vires* of the concerned Acts.

As such, W.P.A. No. 17466 of 2021 is dismissed as not maintainable on the grounds as indicated above, granting liberty to the petitioner no. 1 to file a fresh writ petition challenging the *vires* of the concerned Acts as well as an appropriate challenge in connection with the First Information Report, if the petitioner no. 1 so feels, before the respective courts having territorial jurisdiction.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)