

23.03.2021
Sl. No.11
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via Video Conference)

WPA 9297 of 2020

Baburam Sardar
Vs.
The State of West Bengal & Ors.

Mr. Mir Anowar

....for the petitioner.

Mr. Swapan Kr. Datta,
Mr. Sirsanya Bandyopadhyay,
Mr. Subhendu Sengupta,
Mr. Tapas Kr. Dey

....for the State.

Affidavit of service filed in Court today is taken on record.

The petitioner complains of police inaction as a complaint said to have been lodged by the petitioner on 4th November, 2020 with the Officer-in-Charge, Kaliganj Police Station, Nadia, West Bengal, being the respondent no.4 has not been taken cognizance of by the said respondent. It also appears that in view of dispute between the petitioner and the respondent nos.7 and 8, a proceedings under Section 145 of the Code of Criminal Procedure (in short Cr. P. C.) was instituted as against the said respondents. The petitioner says that the said proceedings was discontinued during the lockdown period or immediately thereafter due to the pandemic.

On behalf of the State, it is submitted that pursuant to receipt of the complaint dated 4th November, 2020, the police has initiated a case, being NCR No.1025 of 2020 dated 11.11.2020 against the respondent nos.7 and 8. The said case is pending. It is further submitted on behalf of the State respondents that the dispute between the petitioner and the private respondents encircles around the right, title and interest of an immovable property and as such it is a dispute of civil nature. The police authorities have a very little role to play in these facts and circumstances.

After hearing the parties and considering the materials on record, it appears that the allegation of police inaction made by the petitioner remains unsubstantiated in view of initiation of proceedings under Section 145 of Cr.P.C. and subsequently another proceedings under Section 107 of the Cr. P. C. It also appears from the provisions of Section 145(10) of Cr.P.C. that nothing in Section 145 shall be deemed to be in derogation of the powers of the Magistrate to proceed under Section 107 of the Cr. P. C.

In this facts and circumstances, the writ petition is disposed of granting the petitioner liberty to approach the jurisdictional Magistrate for appropriate measures to be taken under the provisions of Section 107 of the Cr. P. C. The petitioner will be also at liberty to take such steps as available to the petitioner in accordance

with law in the case initiated under Section 145 of Cr. P. C.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)