

Sl No.04
17.03.2021.
AKG

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction
(Via Video Conference)**

WPA 334 of 2021

Pinkey Ray
-versus
State of West Bengal & Ors.

Mr. Jagriti Mishra

...for the Petitioner.

Mr. Partha Sarathi Deb Barman,
Mr. Debasish Mukhopadhyay,
Mr. Dilip Roy,
Ms. Jeenia Rudra

...for the Respondent Nos. 6, 7 & 8.

Mr. Subir Kr. Saha, AGP
Mr. Bikramaditya Ghosh

...for the State.

The petitioner had lodged a complaint on 8th January 2021 before the Officer-in-Charge, Rajganj Police Station, Jalpaiguri making some allegations against her husband and in-laws.

Mr. Jagriti Mishra, learned advocate appearing for the petitioner submits that since her complaint disclosed cognizable offences, the concerned police authorities ought to have registered a police case on the basis of such complaint and investigated the case, but without taking such step, they referred the matter to the

Protection Officer appointed under the Protection of Women from Domestic Violence Act, 2005.

Mr. Mishra submits that the police authorities had acted illegally in referring the matter to the Protection Officer appointed under the said Act of 2005.

Mr. Mishra, therefore, prays that the concerned police authorities should be directed to register a criminal case against the private respondents under the relevant provision of the Indian Penal Code and investigate the same.

Mr. Partha Sarathi Deb Barman, learned advocate appearing for the private respondents submits that the allegations made in the complaint dated 8th January, 2021 are false. He further submits that a legal notice was received by his client from the petitioner for institution of a proceeding under Section 9 of the Hindu Marriage Act, 1955 for restitution of her conjugal rights.

There is no dispute with regard to the proposition that if a complaint before a competent police authority discloses cognizable offence, the police should register a case under the relevant provisions of Indian Penal Code and investigate into the matter for taking the same to its logical conclusion.

But at the same time, it has to be noticed that in the event of refusal by the relevant police officer to act on such complaint, the complainant is not remediless. He can approach the jurisdictional Magistrate under Section 156 (3) of the Code of Criminal Procedure for ordering such investigation. The writ court only by way of exception will entertain a petition for passing such direction.

In the facts and circumstances of the present case, I feel that the petitioner could have approached the jurisdictional Magistrate seeking a direction against the police for investigation of her complaint. In such view of the matter, the prayers (a) and (b) of writ petition are not entertained. The petitioner will, however, be at liberty to approach the concerned Magistrate for redressal of her grievance.

I also do not feel it necessary to entertain the other prayers made in the writ petition founded on the allegations against the private respondents which have been disputed by them.

Accordingly, the W.P.A. no. 334 of 2021 is dismissed without any order as to costs.

(Kausik Chanda, J.)