

ORDER SHEET

**APOT/10/2020
WITH
WPO/301/2019
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

D AND I TAXCON SERVICES PVT LTD
VS
KOLKATA POLICE & ORS

BEFORE:

The Hon'ble CHIEF JUSTICE THOTTATHIL B.RADHAKRISHNAN
The Hon'ble JUSTICE ARIJIT BANERJEE
Date : 25TH FEBRUARY, 2021.

Appearance:

Mr.Tapas Dutta, Advocate
...for petitioner.

Mr.Amitesh Banerjee, Sr. Standing Counsel
Mr. Tarak Karan, Advocate
...for Respondent.

THE COURT: - Taking up the application for condonation of delay in filing the appeal, we find that the causes shown for the delay are sufficient and accordingly, the delay is condoned.

We have heard learned Counsel for the appellant and learned Senior Standing Counsel for the State Government.

This appeal is directed against the order dated 1st July, 2019 passed in WPO No. 301 of 2019.

The appellant filed a writ petition complaining of police inaction on the allegation that in spite of complete disclosure of commission of cognizable offence in relation to construction of a premises in Kolkata that has not been addressed by the Police and no FIR was being registered nor the matter was being enquired into.

Learned Judge recorded the submissions on behalf of the State that the complaint was enquired into and the Police did not find any substance in the allegation made. Taking a cue from the view of the Hon'ble Supreme Court of India expressed in **Lalita Kumari vs. Govt. of U.P.** reported in **(2014) 2 SCC 1**, learned Counsel for the appellant argued that without lodgment of FIR, Police could not have given such an answer.

Learned Counsel for the State Government has rightly pointed out that it does not become a mandatory requirement to register an FIR in all cases, without an enquiry being conducted at the Pre-FIR stage. It is therefore, submitted that the Police had enquired into the matter with the KMC authorities and the Police found that there was no substance in the complaint and in view of the same no cognizable offence was found to have been committed as alleged and therefore, the Government / State took the stand that there was nothing required to be investigated. We also record the submissions of the learned Senior Standing Counsel for the State that the petitioner has already obtained certified copy of the sanctioned building plan of the structure in question.

Be that as it may, the learned Single Judge had observed that the Police having undertaken an enquiry and since they were of the view that no offence was committed, it would be appropriate to direct the Police Authorities to submit its report before the jurisdictional Court in accordance with law and the Police will also inform the result of the enquiry to the petitioner in accordance with law. This direction of the learned Single Judge, in our view, satisfies the ends of justice and would not call for further interference in exercise of the writ jurisdiction either at the original level or intra-court appellate level. Hence, we are of the view that with the materials that the petitioner may collect from the Police in terms of the direction of the learned Single Judge, he may pursue his remedies, if any, even before the Criminal Court in terms of the provisions of the Code of Criminal Procedure. Therefore, leaving all such points open, this matter is disposed of.

Accordingly, the appeal and all connected applications are disposed of.

(THOTTATHIL B.RADHAKRISHNAN,CJ)

(ARIJIT BANERJEE,J.)