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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1499 of 2022

Md. Khairul Basar
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee,
Mr. Sandipan Das,
Mr. Akashdeep Mukherjee
.... For the petitioner.

Mr. Biswabrata Basu Mallick,
Mr. Sanjib Das
... For the State.

After considering the written instruction received by the advocate for the State which was taken on record by the order dated 18th February, 2022, I had adjourned the matter to enable the petitioner's advocate to take instruction.

It appears from the instruction received by the State that a First Information Report (in short, FIR) was lodged with Lalgola Police Station, Murshidabad, on 20th August, 2018 by the petitioner's wife. The petitioner was implicated in a criminal proceeding being Lalgola PS Case No.565/18 dated 20th August, 2018 on the basis of such FIR. The charge sheet in that criminal case has been filed. During the pendency of the said criminal case another criminal case was filed against the petitioner by his wife under section 125 of the Code of Criminal Procedure 1973 (in short, Cr.P.C.). In the second proceedings, the learned

jurisdictional Magistrate had initially passed an order for interim maintenance. The petitioner failed to pay the interim maintenance to his wife and as a consequence thereof, a warrant of arrest was issued against the petitioner on 21st October, 2021. The petitioner was absconding to avoid arrest and as such was not attending his duties. The petitioner thereafter surrendered and was later on enlarged on bail.

Advocate for the petitioner on instruction submits that the petitioner was arrested and is presently on bail. No further document has been produced before the Court by the petitioner to demonstrate that the statements in the instruction given to the advocate for the State are incorrect.

In the aforesaid facts and circumstances, I find that the petitioner is not entitled to any relief as claimed in the writ petition. The petitioner's employer in view of the petitioner's conduct may have lost confidence in the petitioner. The petitioner is not a permanent employee and his employment is not governed by any service rules save and except office order. The petitioner's employer if is not inclined to keep a civic volunteer like the petitioner engaged in service this Court in exercise of writ jurisdiction cannot interfere with such decision.

The writ petition is, therefor, devoid of merits. That apart and in any event, the petitioner has suppressed the

material facts and has approached this Court with unclean hands. The entire episode as to filing of the criminal case by the petitioner's wife till up to the petitioner being enlarged on bail has not been stated in the writ petition.

The writ petition is therefor dismissed 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 by the respondents.

(Arindam Mukherjee, J.)