

25th November,
2022
(AK)
05-06

CPAN 343 of 2022
in
W.P.A 659 of 2020

Sri Amit Kumar Banerjee
Vs.

Mr. Amit P. Javalagi, the Commissioner of Police,
Chandannagar Police Commissionerate and others

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh

...for the petitioner.

Mr. Tapan Kr. Mukherjee
Mr. Rajat Dutta

...for the alleged contemnors.

The grievance of the petitioner is that, despite a specific direction of this court on the police authorities to provide adequate round-the-clock police assistance to the petitioner for the purpose of upholding a decree of permanent injunction, the police authorities have raised exorbitant estimates for such police help, thereby rendering the direction nugatory.

It is argued by learned counsel for the petitioner that, palpably, the number of police personnel said to be required for preventing the local miscreants from disturbing the petitioner constructing a boundary wall is inflated. Moreover, the costs estimated are also on an exorbitant and higher side.

Learned counsel cites a coordinate Bench judgment of this court in *Anil Kumar Maity vs. State of West Bengal and others* reported at (2007) 2 CHN 124.

In the said case, the learned Single Judge had opined that if the police help is granted within the contemplation of Rule 208 of the Civil Rules and Orders framed by this court, the costs have to be charged from the applicant only in certain cases.

It has been observed, inter alia, in the said judgment that costs for police aid shall not be levied in cases where police help is required because of conditions of a general character, such as the locality being in a disturbed state or a class of people similarly situated, being likely to make a common cause with the judgment-debtor and resist execution.

It is contended by the petitioner that, in the present case, even as per the police authorities, about hundred miscreants came to the property when the petitioner sought to construct his boundary wall.

As such, the clauses as indicated in the cited judgment for the purpose of exemption from payment of police help costs are satisfied in the present case.

Lastly, it is submitted on instruction on behalf of the petitioner that the petitioner is agreeable to pay police help costs but at a scaled down and reasonable rate and not as per the exorbitant rates fixed by the police authorities in the present case.

The learned Senior Advocate appearing for the State submits that the police costs have been estimated on the basis of the chart contained in the extant Circular of the Government of West Bengal.

Learned counsel places reliance on and hands up a copy of a Circular bearing no. 1750(2)-Sanction/HHA/BMC/14-M355/19 dated March 13, 2020, meant for the Howrah District, where the entire rates of charges for providing police are set out.

As such, since it is clear from the order, alleged to be in contempt, that police help costs was directed to be paid by the petitioner, there is no scope, within the periphery of the contempt application, to scale down the rates of charges levied for such purpose.

However, It is apparent that there is nothing on the part of the alleged contemnors which amounts to a contumacious act justifying the issuance of a rule of contempt.

In the facts of the case, since the petitioner's grievance is that the police help costs raised by the authorities are exorbitant and *de hors* the law, it will be open to the contempt petitioner to prefer an appropriate writ petition challenging the rates levied as police costs by the respondent authorities.

If so filed, nothing in this order shall affect or prejudice the rights of the parties in respect of the said writ petition.

However, the contempt application cannot be kept alive for the above reasons.

Accordingly, CPAN 343 of 2022 is disposed of in the light of the above observations.

The Circular/Notification handed over in court today be kept on record.

Nothing in this order shall prevent the police from granting the assistance as directed previously, upon the petitioner having complied with his part of the order alleged to be in contempt.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)