

S/L 2
22.06.2022
Court. No. 19
GB

WPA 8230 of 2022

Dr. Partha Sarathi Ray
VS
The State of West Bengal & Ors.

*Mr. Nirmalya Dasgupta,
Mr. R.L. Mitra,
Mr. Ovik Sengupta.*

...for the Petitioner.

*Sk. Md. Galib,
Mr. Kapil Guha.*

...for the State.

*Mr. Surojit Nath Mitra, Sr. Adv.
Ms. Madhurima Das,
Ms. Ankita Choudhury.*

...for the Respondent No.4.

*Mr. Sayantan Bose,
Mr. Rajarshi Dutta,
Mr. S. Mukherjee.*

...for the Respondent No.5.

The dispute is between a brother and sister. Both the petitioner and the respondent no.4, are highly qualified doctors. The petitioner lives in England and the respondent no.4 has a practice in Kolkata.

Mr. Galib, learned advocate appearing on behalf of the police authorities submits a police report. Mr. Galib submits before this Court, that time and again letters have been received from the petitioner about alleged offences having been committed by the respondent no.4 or her associates. The police authorities have all along taken appropriate steps. According to Mr. Galib, the last complaint, which was filed with regard to missing articles, did not disclose any cognizable offence, inasmuch as, the petitioner himself was not sure whether the household articles were removed or stolen or misappropriated or

damaged or destroyed. According to Mr. Galib, the police authorities are only bound to register an FIR, if a cognizable offence is disclosed.

In this case, it has been categorically submitted that no cognizable offence has been disclosed. Several civil and criminal cases are pending between the parties.

The petitioner submits that the petitioner was in possession upto 2019. There were certain household articles in the house. The petitioner has reason to believe that those articles were illegally removed by the respondent nos.4 and 5 and as such, the petitioner's specific case is that, the complaint discloses a cognizable offence of theft.

Mr. Mitra, learned senior advocate appearing on behalf of the respondent no.4, submits that the records would reveal that the respondent no.4 was in possession of the Salt Lake property since 2017. Reliance has been placed on the complaint lodged by the deceased mother of the parties, indicating that the mother was being prevented from entering the Salt Lake property. According to Mr. Mitra, such complaint would indicate that the petitioner was not in possession of the property in question. He next relies on several paragraphs of the writ petition in order to support such contention. Mr. Mitra further submits that there is nothing on record to show that the furniture and the household articles, which were allegedly damaged, destroyed, removed or stolen were actually lying in the premises and were the personal property of the petitioner.

Heard the parties. The police report suggests that the dispute between the parties is over the Salt Lake house. The wills, through which the petitioner as also the respondent no.4 claim title in respect of the property, are under challenge before the civil court. A money suit is pending. Suit for recovery of possession is also pending before the civil court. Several criminal cases are pending between the parties.

Under such circumstances, the police authorities did not find any reason to register an FIR on the allegations made in the alleged complaint.

It appears that repeatedly cases have been filed and instituted by the petitioner. Another theft case was also complained of, which is also pending. The police authorities have submitted that there are series of complaints of like nature, one after the other.

Under such circumstances, this Court is of the view that the remedy of the petitioner would be to approach the learned Magistrate under Section 156(3) of the Code of Criminal Procedure.

This Court is of the *prima facie* view that the dispute over the property and the animosity has gone to such an extent that the parties have initiated proceedings under the civil and criminal law against each other.

However, the observations made in this order shall not impact the application before the learned Magistrate, if filed by the petitioner.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)