

May 10, 2022
Sl. No.10
Court No.1
PA - RB

WPA (P) 207 of 2022

Jainal Abedin
vs.
The State of West Bengal and Others

Mr. Barun Kumar Ray,
Ms. Mita Banerjee Ray, Advocates
... for the petitioner

Mr. Pratik Dhar,
Md. Sarwar Jahan,
Mr. Maidul Islam Kayal, Advocates
... for the respondent no. 3

Mr. Rajdeep Majumder,
Mr. Mayukh Mukherjee, Advocate
... for the respondent no. 4

Mr. Kallol Mondal, Advocate
... for the respondent no. 8

The grievance raised by the petitioner, a cost management accountant, in this public interest petition is that on 13th April, 2022, he had received the information in WhatsApp from respondent no. 3 advocate that he had filed the anticipatory bail application on behalf of the petitioner in respect of certain incidents which are mentioned in the writ petition. On confirmation, the petitioner found that such an anticipatory application was filed in his name being Criminal Miscellaneous Case No. 1862/2022. The allegation of the petitioner is that he had never met respondent no. 3 and had never signed such an application and his signatures were forged in the said anticipatory bail application, therefore, he has prayed for

initiating action against the respondent no. 3. Several reliefs of general nature have been claimed in the petition but in substance, the petitioner is seeking action against the respondent no. 3.

A perusal of the writ petition reveals that the petitioner is espousing a personal cause in a public interest petition which is not permissible. If the petitioner has any personal grievance against the respondent no. 3, then he has the remedies for the same in the form of making a complaint to the police or to the Bar Council but that does not give any cause of action to the petitioner to file a public interest petition. Hon'ble Supreme Court in the matter of **Mohan Pandey and Another vs. Usha Rani Rajgaria (Smt) and Others** reported in **(1992) 4 SCC 61** has held:

“6. It has repeatedly been held by this Court as also by various High Courts that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons and that the remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of a statutory authority is alleged. And in such a case, the Court will issue appropriate direction to the authority concerned. If the real grievance of the respondent is against the initiation of criminal proceedings, and the orders passed and steps taken thereon, she must avail of the remedy under the general law including the Criminal Procedure Code. The High Court cannot allow the constitutional jurisdiction to be used for

deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised casually or lightly. We, therefore, hold that the High Court was in error in issuing the impugned direction against the appellants by their judgment under appeal. The appeal is accordingly allowed, the impugned judgment is set aside and the writ petition of the respondents filed in the High Court is dismissed. There will be no order as to costs.”

Having regard to the aforesaid, we are of the opinion that this public interest petition by the petitioner raising the personal grievance specially when other remedies are available, cannot be maintained and is accordingly hereby dismissed.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]