

03.08.2022
Sl. No.44(ML)
srm

W.P.A. No. 12654 of 2022

Haradhan Sadhukan

Versus

**Officer-In-Charge, Chatterjee Hat Police Station, Howrah &
Ors.**

Mr. Sardar Amjad Ali,
Mr. Masum Ali Sardar

...for the Petitioner.

Mr. Arun Kumar Saha

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.4 and 5.

It appears from the police report that the petitioner filed a complaint case before the learned Chief Judicial Magistrate, Howrah *vide* Complaint Case No.414 of 2020 under Sections 323/420/506/34 of the Indian Penal Code. Cognizance was taken. The case was transferred to the Court of the learned Judicial Magistrate, Howrah for disposal. The learned court held upon perusal of the report that there was sufficient ground to proceed against the accused persons, for the offences under Sections 323/506 of the Indian Penal read with Section 34 of the Indian Penal Code. Summons were issued against the accused persons. Later, the respondent

Nos.4 and 5 (accused persons) surrendered before the learned court and they were released on bail.

Another complaint was lodged by the petitioner. An enquiry was made. The complaint was entered as a general diary and prosecution under Sections 107 and 116(3) of the Code of Criminal Procedure was submitted against both the parties. It also appears that the petitioner filed a title suit being Title Suit No.412 of 2021 before the learned Civil Judge (Senior Division), 3rd Court at Howrah and the parties were directed to maintain *status quo* with regard to the nature, character and possession of the suit property. Alienation was also restrained. The ad interim order of injunction had been extended from time to time, it is alleged.

The petitioner lodged a complaint before the Commissioner, Howrah Municipal Commission for necessary action against the alleged unauthorised construction. It is the specific contention of the petitioner that the promoters have not only violated the sanction plan, but they have also indulged in several illegal activities and threatened the petitioner with dire consequences.

Even during the pendency of the writ petition, the petitioner was assaulted and a complaint was lodged. On the basis of such complaint, Chatterjeehat Police Station Case No.150 of 2022 dated July 26, 2022 under Sections

448/323/325/427/506/34 of the Indian Penal Code had been registered. The investigation is going on.

The police report indicates that there is a subsisting order of ad interim injunction in respect of the construction. There have been altercations between the parties. A complaint case was filed before the learned criminal court. Cognizance has been taken and summons have been issued against the accused persons and the accused persons surrendered and obtained bail. Subsequently, another FIR was registered.

Under such circumstances, this writ petition is disposed of with a direction upon the Officer-in-Charge, Chatterjeehat Police Station to conclude the investigation with regard to the Chatterjeehat Police Station Case No.150 of 2022 in accordance with law in a free, fair and proper manner.

As there have been several altercations and there are allegation of assault, the police authorities shall keep a strict vigil in order to ensure that the petitioner is not caused any harm. The Officer-in-Charge, Chatterjeehat Police Station, shall also ensure that the order of the civil court is complied with, unless such order has either been stayed or varied or vacated by a competent court.

This order shall not be construed as a decision on merits of the allegations. The pending trial and the pending investigation shall reveal the truth. The culpability of the respondents Nos. 4 and 5 have not been gone into.

The allegations of unauthorised construction and the issues which have been raised before the learned civil court, are left open. Those shall be considered in accordance with law, independently by the appropriate authority/forum.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)