

S/L 139(ML)
18.08.2022
Court. No. 19
GB

WPA 14432 of 2022

Prosenjit Lahiri
VS
The State of West Bengal & Ors.

*Mr. Supratick Sanyal,
Mr. Biswajit Roy,
Mr. Anirban Tribedi.*

...for the Petitioner.

*Mr. Ansar Mondal,
Mr. S. Bhattacharya.*

...for the State.

*Mr. Jayanta Samanta,
Mr. Nitankar Dutta Banik.*

...for the Respondent No.4.

Affidavit-of-service filed in Court today, is kept with the record.

The allegation is that the police authorities have failed and neglected to take steps on the basis of the complaint lodged by the petitioner with regard to the concerned flat, situated at 17/1/17B, Mondal Para Lane, Kolkata-700090. It is alleged that the flat is in the joint names of the petitioner and the respondent No.4. The respondent no.4 (estranged wife) had kept the flat under lock and key and was renting out the same to paying guests. It is alleged by the petitioner that the monthly instalments are being borne by the petitioner. The respondent no.4 had kept the flat under lock and key in order to deprive the petitioner.

The contentions in the writ petition are mainly with regard to the illegal occupation of the flat by the respondent no.4 and the refusal of the said respondent to continue a conjugal life with the petitioner. On the complaint, a general diary was registered by the police authorities. Allegation of

extortion of money and harassment to the petitioner's parents had also been made.

The learned advocate for the respondent no.4 denies all the allegations. According to him, due to the torture inflicted by the petitioner and his family members, a complaint was lodged before the police authorities and Baranagar Police Station Case No.62 of 2022 dated January 31, 2022 under Section 498A of the Indian Penal Code was registered.

The police report indicates that upon completion of the investigation, charge-sheet has been filed against the petitioner and others being charge-sheet no.183 dated April 30, 2022 under Section 498A and Sections 3/4 of the Dowry Prohibition Act. On the basis of the complaint filed by the petitioner under Section 156(3) of the Code of Criminal Procedure a specific case being Baranagar Police Station Case No.190 dated April 5, 2022 under Sections 323/325/34 of the Indian Penal Code was registered. During investigation, the concerned investigating officer sent notice under Section 91 of the Code of Criminal Procedure to the petitioner, asking him to produce supporting documents with regard to his injury, but the petitioner did not produce any such medical report. Investigation has not yet been concluded. The petitioner's parents and the respondent no.4 were also interrogated by the police authorities but it appeared to the police authorities that the dispute with regard to the flat in question could not be resolved as the animosity emanated from matrimonial discord between the

parties. It was not within the jurisdiction of the police to take possession of the flat from the respondent no.4. The respondent no.4, who is an employee of CESC Limited resides with her mother at Akash Apartment, 17/1/17B, Mondal Para, 3rd Floor, Flat No.08.

Under such circumstances, neither this Court nor the police authorities can dislodge the respondent no.4 from the property in question. There is no inaction of the police. However, the petitioner and his parents should not be disturbed in any manner. The police authorities shall ensure that law and order problems are not created by the parties. All the issues raised herein, will be decided in the appropriate proceeding. The pending investigation will be concluded.

As no affidavits have been called for, allegations against the respondent no.4 are deemed to be denied.

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.)