

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 20059 of 2022

Meherunnisha Bibi

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Arunava Ganguly

For the State : Mr. Amitesh Banerjee
Mr. S. Adak

For the respondent Nos. 4 & 8 : Mr. A. Agarwala
Mrs. A. Mukherjee
Mrs. S. Agarwal

Heard on: 20th December, 2022

Judgment on : 20th December, 2022

The Court:

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to look into the matter and investigate the case.

Learned counsel appearing on behalf of the petitioner submits as follows. It is true that there are pending civil litigations between the petitioner and the private respondents. However on 10.08.2022

the private respondents and other assailants committed cognizable offences against the present petitioner. This was brought to the notice of the local police on 12.08.2022 and a prayer was made to register an FIR. But, the same was not done. A prima facie case is made out as would be evident from a plain reading of the letter of complaint. In the interest of justice, this Court may be pleased to direct the police to lodge an FIR.

Learned senior counsel appearing on behalf of the State files a report, which is taken on record. He submits that there is an existing civil dispute between the petitioner and the adverse parties.

Learned counsel appearing on behalf of the respondent nos. 4 and 8 submits that the proper forum to agitate the petitioner's grievances in the event the police do not register an FIR is the learned Magistrate of competent jurisdiction. This has not been explored in the present case.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition.

It appears that there are existing civil litigations between the private parties and a title suit is pending in this regard. However, if any of the parties make allegation of commission of cognizable offences it is for the appropriate authority to look into it.

It appears that the petitioner has only approached the local police station with the prayer for registration of the FIR. The invoking

of writ jurisdiction for directing the registration of an FIR can be done only in exceptional circumstances.

The petitioner does have the alternative remedy of either approaching the concerned Superintendent of Police or making an application under Section 156(3) of the Code before learned the jurisdictional Magistrate.

In view of the above, I do not find any reason to interfere with the matter. However, the petitioner shall be at liberty to seek the alternative relief as mentioned above.

The allegations in the writ petition are not admitted as no affidavits have been called for.

No opinion is expressed on whether the letter of complaint actually discloses cognizable offences.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copies of this order may be delivered to the learned advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)