

07-02-2023
ct no. 13
Sl.11
sp

WPA 2210 of 2023

Anindita Das

-Versus-

The State of West Bengal & Ors.

Mr. Joydip Kar, ld. Sr. Adv.,
Mr. Sujay Bandyopadhyay,
Mr. Shambhu Mahato

....for the petitioner

Mr. Kishor Datta, ld. Sr. Adv.
Mr. Soumya Nag

...for the respondent no. 19

Affidavit of service filed in Court is taken on record.

The petitioner is the wife of the respondent no. 19, who is a retired IPS officer and is presently a Member of Legislative Assembly of the State. A proceeding for divorce has been filed by the petitioner. As many as 3 FIRs have been registered on the allegations made by the petitioner against her husband.

The petitioner is aggrieved that the complaints dated 02.11.2022 and 24.01.2023, addressed to Karaya Police Station have not been registered as FIR.

Mr. Kishor Datta, learned Senior Counsel appearing for the respondent no. 19, the husband, submits that the petitioner ought to have approached the Magistrate under Sections 156(3) of the Cr. P.C. in terms of the dicta of the Hon'ble Supreme Court in

the case of ***Sakiri Vasu vs. State of U.P.*** reported in **2008 (2) SCC 409** and in the case of ***Aleque Padam & Ors. vs. Union of India & Ors.*** reported in **2007 (6) SCC 171**.

However, having regard to the decision of the Hon'ble Supreme Court in the case of ***Lalita Kumari vs. State of U.P.*** reported in **2014 (2) SCC 1** and given the obligation of the police to register an FIR in the event a cognizable offence is disclosed, this Court directs the Karaya Police Station to register FIRs on the complaints of the petitioner and investigate the matter.

Both the petitioner/wife and the private respondent no. 19/husband, undertake before this Court that they shall maintain peace and not disturb each other since they are admittedly living separately.

This Court has the interest of the 9 years old minor child who is studying in the school in mind. The police shall also bear this in mind. Any rights of visitation or guardianship may be agitated before the concerned Court in terms of the appropriate statute.

With the aforesaid observations, the writ petition shall stand disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

