

04.04.2023.
Court No.13
Item No. 9
ap

W.P.A. No. 6661 of 2023
Ashis Dutta & Anr.
Versus
The State of West Bengal & Ors.

Mr. Dilip Kumar Samanta,
Mr. Biswapriya Samanta,
Mr. Argha Banerjee,
Ms. Tithi Pal.

...For the petitioners.

Mr. Santanu Kumar Mitra,
Mr. Sudip Sarkar.

...For the State.

Mr. Debabrata Saha Ray,
Ms. Neil Basu.

...For the private respondents.

Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury,
Mr. Avishek Choudhury.

...For the respondent No.5.

The petitioners complain that FIR No. 143 of 2022 dated 6th September, 2022 registered by Joypur Police Station on the complaint of the Punjab National Bank under Sections 403/406/420/379/34 of the Indian Penal Code is liable to be quashed.

It is argued by the Counsel for the petitioners, Mr. Samanta, that although the Bank has named more than one person in their complaint, FIR has been registered only against two persons.

It is, therefore, submitted that the dicta of the Hon'ble Supreme Court of India in the case of **State of Haryana & Ors. – Vs. – Bhajanlal & Ors.** reported in **1992 Supp (1) Supreme Court Cases 335**, particularly paragraphs 102 and 103 must be applied

in the facts of the case. Particular reference is made to Clause (V) of the said paragraph of the aforesaid decision.

According to Mr. Samanta, the allegations in the complaint and the FIR are absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the petitioners.

This Court has carefully gone through the complaint. The Bank has complained, inter alia, that the petitioners, who are the Directors of the borrower company, namely, Maa Jagat Gouri Rice Mills Pvt. Ltd., had mortgaged the immovable property by deposit of title deeds. They had misappropriated some of the hypothecated articles. They had fraudulently taken over physical possession of the mortgaged properties, despite an order of the District Magistrate, Bankura dated 30th March, 2018 directing the Block Land & Land Reforms Officer, Bankura to hand over physical possession of the same to the Authorized Officer of the Bank.

There are various other allegations against the petitioners and other Directors of the borrower companies and another sister concern, namely, Maa Muktakeshi Potato Freezing Pvt. Ltd.

Having considered the complaint carefully and the FIR, this Court is of the view that there are

ingredients of the offences under which the FIR has been registered. The investigation is still continuing.

Counsel for the Bank also submits that an anticipatory bail application being C.R.M. (A) No. 5867 of 2022 of the petitioners has been rejected by an order dated 19th December, 2022 by a Division Bench of this Court.

The report of the Joypur Police Station dated 23rd March, 2023 filed in Court today be kept with the record.

In view of the above, no relief can be granted to the writ petitioners in this writ petition. The instant writ petition must fail and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)