

WPA 9587 of 2023

Tapan Roy Paul

-vs-

State of West Bengal & ors.

Mr. Satrajit Sinha Roy

....for the petitioner

Mr. Shamit Sanyal

Mr. M. Kanji

...for HDFC Bank

Mr. Nirmalya Biswas

Mr. Ritesh Kr. Ganguly

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to investigate into the offences alleged by the present petitioner.

An affidavit of service filed on behalf of the petitioner is taken on record.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had taken a gold loan from a bank. However, the bank authorities thereafter contended that he had applied for a term loan. Higher interest rate was charged. In the process, substantial sum was embezzled.

Learned counsel for the State relies on a report and submits that after a complaint was made by the petitioner, it was inquired into and found that the petitioner was at fault

in defaulting loan taken.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition and the report filed by the State.

It is not clear as to why the police had chosen to conduct a preliminary inquiry. It should actually have been made clear in the report. However, according to them, no offence is made out by the bank authorities.

The normal recourse available to a person who alleges commission of a non-cognizable offence for having a FIR registered is to first approach the local police station and if it is refused, then the Superintendent of Police and failing which, an application can be filed before the jurisdictional Magistrate under Section 156 (3) of the Code.

The petitioner shall be at liberty to take recourse to such remedy available.

This Court does not find any reason to interfere with the matter.

Accordingly, the writ petition is disposed of without costs.

Since affidavits were not called for, allegations are deemed not to have been admitted.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)