

31.07.2023
Item No. 144
BR

WPA 9779 of 2023

Sri Jagannath Samanta
-vs
The State of West Bengal & Ors.

Mr.Prabir Kumar Chatterjee,
Mr. Goutam Banerjee,
Ms. Priya Dey
.... For the petitioner

Mr. Amitesh Banerjee,
Mr. Tarak Karan
.... For the State

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities to give police assistance so that the petitioner can take away his vehicle from the private respondent.

Affidavit of service filed in Court today is taken on record.

Despite service, no one appears on behalf of the private respondents.

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

Learned counsel appearing for the petitioner submits as follows. The petitioner is the owner of a vehicle. On 3.3.2021 a sale agreement was executed between the petitioner and the private respondent no. 6. The private respondent agreed to purchase the vehicle by paying all the installments. However, he paid only seven installments and is yet to pay rest seventeen installments. He retained possession of the vehicle. This is a clear case of criminal breach of trust and cheating. Although, a prayer was made before the police authorities to recover the vehicle, no response was received.

Learned counsel for the State relies on the report and submits as follows. During pendency of the agreement an application was filed by the petitioner under Section 97 of the Code of Criminal Procedure. A report was filed by the State. However, the same was disposed of without any order in favour of the petitioner.

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

There is no provision under which the petitioner can directly pray for a relief before the police authorities to have the vehicle delivered. However, if the petitioner thinks that a cognizable case of criminal breach of trust is made out in the facts and circumstances of the case, he shall be at liberty to file a petition of complaint or an application under Section 156(3) of the Code before the learned jurisdictional Magistrate.

No further order need be passed in this case.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible. .

(Jay Sengupta, J.)