

18.07.2023
Item No. 18
BR

WPA 15835 of 2023

Bhiku Mondal
-VS
State of West Bengal & Ors.

Mr. Partha Sarathi Das,
Mr. Kaushik Biswas ,
Ms. Shanta Sarkar,
Mr. Debajyoti De,
.... For the petitioner

Mr. Ashim Kumar Ganguli, Sr. Govt. Adv.
Mr. Jyotsna Roy Mukherjee
.... For the State

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities , especially the respondent nos. 2 and 3 to take action against the respondent no. 8 and to arrest him on the basis of a written complaint filed by the petitioner.

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

It appears that the private respondent refused to accept service of notice. This amounts to a good service.

Learned counsel appearing on behalf of the petitioner submits as follows. The private respondent was a long time acquaintance of the petitioner. He had promised that he would get the petitioner's wife a very good job at the Indian Railways. On such promise the private respondent took a total sum of Rs.47,00,000/- from the petitioner. In fact, there was an agreement entered into on a stamp paper. In spite of that the respondent did not get a job. He refused to return the money. When he was accosted, he threatened and intimidated the petitioner. Complaints were lodged before the respondent police authorities, but no effective step was taken in this regard.

Learned counsel appearing on behalf of the State submits as follows. The petitioner in such event would have to apply before the learned jurisdictional Magistrate under Section 156(3) of the Code. But the petitioner was also to blame for the fiasco.

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

It appears that the petitioner has served to the respondent police authorities with the letter of complaint which according to him makes out a cognizable case. Yet, no action was taken.

In such circumstance it is open to the petitioner to approach the concerned Superintendent of Police and in the event of non-action he may file application under Section 156(3) of the Code before the learned jurisdictional Magistrate.

Therefore, no further order need be passed in this petition.

With these directions 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.)