

23-02-2023

ct no. 13

Sl.8

sp

WPA 19508 of 2021

Tushar Kanti Adhikary @ Tusar Kanti Adhikari

-Versus-

State of West Bengal & Ors.

Mr. Shibaji Kumar Das

....for the petitioner

Ms. Deblina Lahiri,

Mr. Mrinmoy Chatterjee,

Mr. T. Chetri

..for the respondent nos. 7, 8, 9 and 10

The petitioner is aggrieved by the actions of the Garfa Police Station in failing to investigate into the FIR being Garfa PS Case No. 387 dated 22.10.2018 for the State Bank of India in refusing to record a sum of Rs. 1,50,047.20/-, fraudulent withdrawn from the petitioner's bank account.

The aforesaid sum was fraudulently withdrawn from the petitioner's SB account by using his debit card on October 20, 2018. The said fraudulent transaction continued till the next day. The petitioner received sms messages from the bank alerting him of the withdrawals. It was further intimated that in the event, the petitioner did not make the transaction, he should contact the bank on a specified toll free number.

The petitioner without blocking his card or complaining to the bank on the said numbers lodged

a formal complaint in writing to the bank on Monday, October 23, 2018.

The bank investigated into the complaint and has stated, inter alia, that the petitioner's complaint was beyond 7 days of the fraudulent withdrawal and that the petitioner ought to have called them in toll free number provided with each sms, inter alia, for blocking the card in question. The bank rejected the petitioner's claim by a letter dated October 22, 2019.

The petitioner has approached the banking Ombudsman against the SBI by filing application dated September 9, 2019. The Ombudsman may, therefore, dispose of the petitioner's complaint expeditiously with a reasoned order.

The Garfa Police Station has filed a report dated 22.02.2023 indicating that the FIR being Garfa PS Case No. 387 dated 22.10.2018 was investigated and the petitioner's complaint was found to be true. The police could not, however, identify or find any accused person and hence, final report 'Fact Remain True' (FRT) has been filed on December 12, 2019 vide No. 59/2019.

The petitioner may also take up the FRT of the bank dated December 12, 2019 before the ACJM, Alipore, inter alia, under Section 173(8) of the Cr. P.C.

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

The report of the Garfa Police Station dated 22.02.2023 is kept with the record.

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.)