

16.01.2023.
p.b.
Sl. No.18.

WPA 21718 of 2017

Tapobrata Banerjee
Vs.
Commissioner of Customs,
Kolkata & Ors.

Mr. Malay Dhar,
Mr. Bhaskar Sengupta.
.....for the petitioner.
Mr. B. P. Banerjee,
.....for the customs authority.
Ms. Manasi Mukherjee.
.....for the respondents.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned sanctioned order by the customs authorities concerned for prosecution, by filing this writ petition on 23rd August, 2017 i.e. almost after more than 12 years and at the time of moving this writ petition, there was no interim order of stay of the proceedings on the basis of such sanction. Now, the fact remains that on the basis of the impugned sanctioned order which was passed almost 18 years back and admitted position that on the basis of the impugned sanctioned order criminal proceedings have been initiated by the criminal court by taking cognizance of the same it would not be proper on the part of this writ court in exercise of its jurisdiction under Article 226 of the Constitution of India to interfere with the impugned sanctioned order when on the basis of the same, the

criminal court has already taken cognizance and trial is pending before the special court and passing order of this Court would amount to interfere with the criminal proceeding which is not the subject matter of challenge before this Court.

Learned advocate appearing for the petitioner submits that though 18 years have been passed of filing such complaint before the criminal court on the basis of the impugned sanctioned order, no charge has been framed and trial has been commenced, to which if petitioner is aggrieved, this writ court is not the appropriate forum for redressal of such grievance and petitioner should raise this grievance of delay in trial in question before the appropriate forum available under the appropriate law.

In view of the discussions made above, I am inclined to dispose of this writ petition being WPA 21718 of 2017 with the observation made hereinabove and also keeping the point of legality of the sanction open before the appropriate forum.

(Md. Nizamuddin, J.)