

September 15, 2023
AD 27
Court No.14
SG

WPA 20376 of 2023

Rita Chakraborty
vs
State of West Bengal and others

Mr. Debasis Kar
... for the petitioner

Mr. Asish Kumar Guha
Mr. Rajendra Chaturvedi
... for the State

Mr. Sayan Kanjilal
... for the respondent Nos.4 & 5

Affidavit of service filed in Court is taken on record.

A report filed by the State is also taken on record.

A copy of the report filed in connection with the proceedings under Section 107 of the Code and a copy of the joint representation by the flat-owners as filed by the private respondent Nos.4 and 5 are taken on record.

Learned advocate for the petitioner submits as follows. The petitioner is the owner of a flat in question while the private respondents are the residents of a flat in the same building. On a particular occasion, the private respondents mercilessly assaulted the petitioner and also with an intent to outrage her modesty, touched her body in an ugly manner. This was brought to the notice of the Commissioner of Barrackpore Police Authorities on 12.08.2023, but no FIR was lodged.

Learned advocate for the private respondent Nos.5, 6 and 8 submits as follows. The allegations made in the

writ petition are denied. As would appear from the report filed in a proceeding under Section 107 of the Code, on the particular day a hot altercation took place between the private respondents and the mother of the petitioner. It is also apparent from the mass petition filed by the other flat-owners of the building that the petitioner had been threatening others, and not even paying maintenance charges for a few months.

Learned advocate for the State relies on the report and submits as follows. On the complaint of the petitioner, a proceeding under Section 107 of the Code was initiated. The police are keeping a sharp vigil at the locale.

It appears that a dispute arose over the payment of maintenance charges in respect of flats.

Whether a criminal act is preceded by an occurrence having a civil flavour, if a cognizable case is made out, an FIR can be registered.

As it is alleged that the local police station as well as the Commissioner did not register an FIR on the complaint of the petitioner, the petitioner shall be at liberty to act in terms of the decision laid down by a Special Bench of the Hon'ble Apex Court in the case of *Aleque Padamsee*, reported in (2007) 6 SCC 171. Any such application shall be considered in accordance with law.

No further order need be passed in this regard.

Merits of the case have not been gone into.

With these observations, the writ petition is disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]