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Ct 14

WPA 20780 of 2023

Rabin Naskar
-vs-
The State of West Bengal & ors.

Mr. Sandipan Pal
Ms. Tithi Chakraborty
...for the petitioner
Mr. Suman Sengupta
Mr. Santanu Kr. Mitra
..for the State
Mr. Rajdeep Bhattacharya
Mr. Sanjib Sankar Mazumdar
..for the respondent nos. 5 & 6

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the father of the respondent no.5 and the father in law of the respondent no.6. One day when the petitioner was in an inebriated state and was not quite conscious, the private respondents fraudulently took the petitioner's thumb impression on a paper and created a document purporting to grant a lease of the property for 99 years to the private respondents. This was subsequently notarized. It further appears that a civil suit has been filed on the strength of such forged documents. The petitioner did not know about the filing of such civil suit by the private respondents for a very long time. A complaint was lodged in this regard before the police authorities making out a prima facie case. But no action has been taken.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The police have acted on the complaint of the petitioner and instituted a proceeding under Section 107 of the Code. It appears that earlier the respondent no.6 had filed an FIR against the father in law and the brother in law, inter alia, under Section 498A of the Penal Code.

Learned counsel appearing on behalf of the private respondents submits as follows. The allegations made in the writ petition are denied. The father in law and the brother in law of the respondent no.6 had committed offences, inter alia, under Section 498A of the Penal Code. That is why she lodged an FIR against them and not against her own husband. In the civil suit filed by the private respondents, an injunction was granted by the learned Civil Court not to oust them from the possession of the property in question.

Ordinarily a son and daughter in law could stay at the father's residence only as licensees. However, this would obviously be subject to any other agreement validly entered into by the private parties.

It is also quite astonishing that such notarized document purporting to be a lease mentions the consideration money being given in cash. However, the veracity and genuineness of such deed are to be tested at the appropriate forum.

It is germane to mention that lodging an FIR, inter alia, under Section 498A of the Penal Code against the in

laws except the husband is indeed a very exceptional exercise.

If a cognizable case is made out, the police authorities shall explore the possibility of registering an FIR on the complaint of the petitioner dated 09.02.2023.

This shall not preclude the petitioner from proceeding in terms of the directions given in Aleque Padamsee's Case, (2007) 6 SCC 171.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)