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06.12.2023
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Ct 14

WPA 23515 of 2023

Smt. Jnui Paul

-vs-

The State of West Bengal & ors.

Ms. Sudakshina Dey

...for the petitioner

Mr. Saibalendu Bhowmik

Mr. Subrata Bhattacharya

Mr. Rajsekhar Basu

...for the respondent no.5

Mr. Wasim Ahmed

Mr. Sk. Md. Masud

...for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

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

Copy of the order dated 08.02.2021 passed by the learned Judicial Magistrate, 10th J.M. Alipore in Case No. C-1624/20 as filed on behalf of the private respondent is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the wife of the respondent no.5. Several judicial proceedings became pending between the private parties. A purported settlement was arrived at. In pursuance of the same, it was agreed that the petitioner would pay some amount of maintenance and only after that the case under the Domestic Violence Act

would be withdrawn. It was also aggrieved that simultaneously the parties would pray for mutual divorce. However, the private respondent did not keep his words. He procured documents signed by the petitioner in blank for misusing the same. On the same day, although the petitioner was not present in Court, two cases were withdrawn after showing her to be present.

Learned counsel appearing on behalf of the private respondent submits as follows. The allegations made in the writ petition are denied. As would be evident from the order dated 08.02.2021 passed in the proceeding under the Protection of Women from Domestic Violence Act, it was recorded by the learned Magistrate that the complainant was present and was withdrawing the application. On 06.03.2021, no one took steps in the matrimonial suit and therefore, the matrimonial suit was dismissed for default.

It appears that on 08.02.2021, the learned 10th J.M., Alipore, South 24- Parganas, recorded that the complainant was present and an order was passed permitting complainant to withdraw the case. If this was a wrong recording then the petitioner should have either prayed for correction of the records or challenged it at the earliest.

However, if the petitioner is aggrieved with any of the proceedings, she shall be at liberty to make appropriate prayer before the respective Courts.

No case is made out for police inaction in dealing with the complaint presented by the petitioner.

Accordingly, the writ petition is dismissed.

However, there shall be no order as to costs.

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

(Jay Sengupta, J.)