56 19.04.2024
NB Ct. 14

WPA 2208 of 2024

Sandhya Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Partha Sarathi Das,
Mr. Shjanta Sarkar,
Mr. Debojyoti Dey,
Mr. Souraja De.
…for the petitioner.

Mr. Amitesh Banerjee ld.SSC,
Mr. Rudrajit Sarkar.
…for the State.

Mr. Soumitra Chatterjee,
Mr. Tarun Kanti Ghosh.
…for the respondent nos.4&5.

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.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had inherited some property along with other co-sharers. The private respondents fraudulently sold away some portion of the said property to third persons by forging deeds. Such action has been challenged by way of a civil suit as well. The same are pending. However, that does not mean that the police would not act on the alleged criminal offences if a prima facie case is made out in the complaint. The police have refused to register an FIR on the complaint made by the petitioner.

Learned counsel appearing on behalf of the State relies on the report and submits that there is a long-standing civil dispute pending between the private parties. However, to prevent the worsening of law and order situation, a proceeding has been initiated under Section 107 of the Code.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits that the dispute is at best civil in nature.

In appropriate cases, both civil litigation and criminal case can be sustained at the same time. However, for sustaining a criminal case, prima facie it has to be shown that the allegations are made out.

If the petitioner believes that a cognizable case is made out on his complaint, he shall be at liberty to act in terms of the ratio laid down in ***Aleque Padamsee's*** Case reported in (2007) 6 SCC 171.

With these observations, the writ petition is disposed of.

As affidavits were not called for, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)