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WPA 6811 of 2024

Thakurani Bala
-vs-
The State of West Bengal & ors.

Mr. Sabir Ahmed
Mr. Shraman Sarkar
Mr. Nazmul Sarkar
Mr. Tasnim Ahmed
Ms. Suman Biswas
Mr. Dhiman Banerjee

....for the petitioner

Mr. Pantu Deb Roy
Mr. Pannalal Bandopadhyay

...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.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the wife of the respondent no.8. She is the owner of the premises in question. Her husband had been torturing and assaulting her. The torture increased when the private respondent became more powerful, politically, now after being elected as the President of the local Panchayat Samity. Finally, the petitioner was ousted from her own residence. When she went to lodge a complaint before the police, but the police

did not register an FIR. Even for taking any appropriate action in terms of Protection of Women from Domestic Violence Act, the petitioner has to return back home and take relevant documents including identity proof. The same is being denied by the husband and the police are not helping in this either.

Learned counsel appearing on behalf of the respondent authorities submits as follows. It is true that the residence belongs to the petitioner, but she had left the said residence of her violation. In fact, the petitioner's father lodged a GD entry in this regard. A complaint was received by the petitioner by post. But it was not registered as an FIR. As inquiry reveals that no offence was committed.

First, it is claimed by the State respondents that the petitioner had left the residence which belongs to her out of her own violation and thereafter, made a false claim of assault and torture against her husband. These facts are difficult to accept at the face value.

Secondly, if a cognizable case is made out, an FIR needs to be registered forthwith. However, in certain cases like cases involving merely matrimonial dispute, preliminary inquiry is permitted. It appears from the inquiry report that the husband had apparently shown concern about the wife going missing.

Therefore, it would not go against the interest or wishes of the husband if the wife returns home. In any event, the petitioner is entitled to go back to her own house.

In view of the above, let the wife be permitted to return to her residence.

Let the petitioner wife intimate the date and time on which she intends to return her house to the Officer in Charge of Kalyani Police Station with a 24 hours' notice. Then the concerned Officer shall arrange for necessary police escort so that the petitioner can return back his own residence. The entry to the residence shall be videographed.

Even otherwise, the police authorities shall ensure that no breach of peace takes place and no harm ensues to the present petitioner.

If a cognizable case is made out from the complaint of the petitioner, the police authorities shall consider registering an FIR forthwith.

If any untoward incident occurs or is apprehended to the petitioner, she shall be at liberty to call up the Officer in Charge of the Kalyani Police Station who shall then act in accordance with law.

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.)