

28.05.2024
Ct. No. 5
Sl. No. 8
KB

WPA 8017 of 2024

Mohammad Towfiqul Haque
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Vs.
The State of West Bengal & Ors.

Mr. Arunava Ganguly
Mr. Debottam Das
Ms. Dibyanjona Das

... For the petitioner

Mr. Suman Sengupta

...For the State.

The writ petitioner has been aggrieved due to prolonged inaction on the part of the respondent authorities, in granting sanction under Section 197 Cr.P.C. to proceed against the accused persons in the Complaint Case registered before the Chief Judicial Magistrate, Hooghly as C.R. Case No. 285 of 2011.

The fact remains that C.R. Case No. 285 of 2011 was filed by the present writ petitioner before the Chief Judicial Magistrate, Hooghly, alleging physical assault by the accused persons/private respondents, in police custody. The private respondents are police personnel.

It appears from the order of the Chief Judicial Magistrate, Hooghly dated June 28, 2011 that the Court took cognizance of offence. Before issuance of

summons under Section 204 Cr.P.C. sanction was sought for, to be granted by the concerned authority, to proceed with against the present respondents/police personnel. There has been stoic silence on the part of the respondent authorities since the date of order as mentioned above, i.e. June 28, 2011.

Mr. Arunava Ganguly, appearing for the writ petitioner has pointed out from the annexed document that letters have been sent to the authorities as well as various court orders have been issued subsequently directions such a sanction order to be issued expeditiously, but in vain.

Mr. Suman Sengupta has represented the respondent authorities.

Firstly, he has pointed out to the non-maintainability of the present writ petition on the ground that not on every drop of a hat, Writ Court should interfere to the matter, for which the Criminal Court would have an exclusive jurisdiction. On this point he has relied on a judgment of this Court reported in 2015(1) CHN 44 (*Indrani Chakraborty vs. State of West Bengal & Ors.*)

The following paragraph has been relied on:

“20. In Mohan Pandey (supra), the Supreme Court had the occasion to observe that: “the High Court cannot allow the constitutional jurisdiction to be used for deciding disputes,

for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised causally or lightly.”

No scope of doubt is there regarding the said proposition of law, that only an extraordinary situation would be the triggering factor for this Court to exercise its special and extraordinary jurisdiction.

This Court considers non granting of sanction for the prosecution against the present private respondents, is such an extraordinary condition, in which the Writ Court should interfere and ensure that rule of law prevails.

Record reveals that since 2011 (June 28, 2011 to be precise) the respondent authorities are keeping extraordinary inaction, requiring extraordinary step to be taken to mitigate the same.

Mr. Suman Sengupta has handed over to Court copy of a letter dated May 14, 2024 addressed to the Assistant Secretary, Government of West Bengal, written by the Commissioner of Police, Chandannagar Police Commissionerate, requesting for sanction. Even if the same is taken as the first step to have been undertaken by the police authorities to move the appropriate authority for grant of sanction, to address

the same to be a belated one would be only an understatement. Rather clear negligence and intentional disobedience to the Court's order is apparent.

Be that as it may, since it is required for the ends of justice that sanction order must be issued immediately not to linger the trial of the accused any further, the respondent authorities are directed to issue sanction order within three days from the date of this order.

In doing so this Court holds high expectations that the respondent authorities would coordinate amongst themselves.

It is also expected that the concerned Magistrate would expedite the trial.

The writ petition is thus disposed of.

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Rai Chattopadhyay, J.)