

WPA 11270 of 2024

Madhumita Paik
-vs-
The State of West Bengal & ors.

Mr. Arka Pratim Chowdhury
Mr. Tamal Singha Roy
Mr. Subha Pathak
..for the petitioner
Mr. Swapan Banerjee
Mr. Soumen Chatterjee
...for the State

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

Reports filed on behalf of the State, one through the Officer in Charge of Bansdrone Police Station and the other through the Officer in Charge of Anti Rowdy Section, Detective Department, Kolkata, are taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner's bank account has been used by a fraudster to illegally transfer money to other accounts. The petitioner lodged a complaint to this effect. The petitioner came to know about this after she received a notice from bank. She approached the local police. The police have not registered any FIR. Thereafter, it appeared that in Mandir Marg Police Station at Delhi, an FIR has been registered being FIR No. 11 dated 23.03.2024 in connection with the same. Notice was issued under Section 41A of the

Code to the petitioner, which has been complied with. However, the petitioner's version has to be taken down as an FIR though the petitioner is herself the victim.

Learned Additional Government Pleader representing the State relies on the report and submits as follows. It appears that the petitioner had allowed her bank account to be used by a third party on payment of monthly sum of Rs. 5000/-. She has not herself suffered any financial loss. There is already an FIR registered over the incidents at Delhi.

It is true that the Delhi police might have had a complaint registered of an FIR. That does not preclude the local police at Kolkata from registering the petitioner's complaint as an FIR, if it makes out a cognizable case.

Simply because the petitioner had not suffered a financial loss, as of now, it does not mean that an offence has not been committed. The police authorities erred in their report dated 24.04.2024 in raising such contention.

However, this is also not such a case where this Court would exercise its exceptional powers to direct the police to register a case.

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

No further order need be passed in this regard.

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.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)