

07.10.2024
Item No.5
gd/ssd

FMA/834/2024
SURAJ SONKAR
VS
THE STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2024, CAN/2/2024

Mr. Ronjit Kumar Roy,
Mr. Deo Nath Sonkar,
Mr. Ekta Ranjan Shaw
..for the Appellant.

Ms. Sangeeta Roy,
Mr. Sujit Chatterjee
..for the State.

Mr. Amit Singh,
Mr. Pradeep Kumar Singh,
Mr. Prodyut Maity
..for the Private Respondent.

Mr. Sukanta Chakraborty,
Mr. Arijit Majumdar
..for NCSC.

1. This intra court appeal by the writ petitioner is directed against the order dated 2nd May, 2024 in WPA 26175 of 2023.

2. There is a delay of four days in filing the appeal and since the explanation offered is acceptable, the delay is condoned.

3. The writ petition was filed to give effect to the petitioner's representation dated 06.11.2023; to provide protection for the petitioner and his family members and to set aside the FIR No.97 of 2023 dated 15.10.2023 and to draw up a fresh FIR upon fresh enquiry.

4. The learned writ court upon considering the facts found that the FIR has now matured to a charge-sheet and the charge-sheet has been filed before the trial court.

5. That apart, there is a counter complaint given by the private respondent in which investigation was complete and charge-sheet has been filed and both the matters are now pending before the trial court.

6. Therefore, the learned Single Bench has rightly observed that the writ petitioner shall be at liberty to agitate all points at the time of trial, if the same ensues.

7. It is submitted by the learned advocate appearing for the private respondent that civil suit is pending between the parties in Title Suit No.2608 of 2022 before the learned VIIIth Bench, City Civil Court at Calcutta and there is also an order of status quo.

8. The learned advocate for the private respondent submitted that the copy of the supplementary affidavit has not been served on him and the private respondent does not admit any of the allegations made therein. Further, it is submitted that the brother of the appellant has filed another writ petition on the selfsame cause of action in WPA 3313 of 2024.

9. The learned advocate appearing for the petitioner placed reliance on the decision of the Hon'ble

Supreme Court in Anant Thanur Karmuse v. the State of Maharashtra & Ors. in Criminal Appeal No.13 of 2023 dated February 24, 2023.

10. We find the said decision has no application to the facts of the case as the matter before the Hon'ble Supreme Court was whether the prayer for transfer of investigation to the Central Bureau of Investigation was justified or not.

11. Therefore, we are of the view that the learned Single Bench was right in disposing of the writ petition with certain observations.

12. If, according to the petitioner, he and his family members are continuing to be threatened by the private respondent even after the charge-sheet has been filed before the trial court, it will be well open to the petitioner to file an appropriate complaint before the jurisdictional police who shall consider the complaint, cause an investigation, assess the threat perception and proceed to take action in accordance with law.

13. Accordingly, the writ appeal is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)