

D/L. 10.
March 4, 2024.
MNS.

WPA No. 18679 of 2023

Subir Kumar Paul
Vs.
State Bank of India and others

Mr. Asim Hati,
Ms. Sreetama Neogi,
Ms. Rima Banerjee

...for the petitioner.

Mr. Abhimanyu Shandilya,
Ms. Simi Paul,
Mr. Anousko Das

...for the respondent nos. 1 to 3.

Mr. Jayanta Samanta,
Mr. Supriya Majumder

...for the respondent no. 4.

1. Affidavits-of-service filed today be kept on record.
2. Leave is granted to the learned Advocate for the petitioner to amend the cause title of the first affidavit-of-service during the course of the day.
3. The petitioner is a joint holder of an account. It is alleged that the private respondent/wife of the petitioner swindled the petitioner by siphoning off the substantial amount of Rs. 16,26,000/- out of the said account and put it in a newly opened account in her name.

4. The petitioner lodged an FIR, which has culminated in a charge-sheet. It is argued that, as such, *prima facie* the allegations of the petitioner have been proved. The petitioner now claims for the Bank to disclose the details of the account opened by the private respondent in her own name singly and for an order that she cannot withdraw any further sum from the said account unless and until the security for the sum of Rs. 16,26,000/- is furnished by the private respondent.
5. Heard learned counsel for the parties.
6. Learned counsel for the Bank is justified in arguing that the joint account held by both the parties cannot be restricted from being operated by one of them on the basis of the allegations made by the petitioner.
7. A perusal of the allegations and the annexures to the writ petition indicates that the petitioner has a private cause of action against the private respondent insofar as the quantum of money lying in the joint account of the parties as well as the single account, if opened by the private respondent is concerned. It is entirely beyond the domain of the writ court or for that matter, the Bank to adjudicate on the respective entitlement of the

parties to the amount lying in the said account. The relief sought by the petitioner is virtually by way of a relief which could only be granted by a competent civil court and no forum other than that.

8. The argument of the petitioner that the allegations of the petitioner are *prima facie* proved in view of the charge-sheet having been filed cannot be accepted, since the filing of a charge-sheet is mere formation of opinion by the investigating authority, which is entirely subject to scrutiny by a competent criminal court in trial, which stage is yet to arrive.
9. That apart, even the final conclusion of a criminal court, it is well-settled, is ordinarily not binding in respect of the civil claim before a civil court. However, nothing prevents the petitioner from instituting an appropriate civil suit against the private respondent and seek interim relief including discovery and/or injunction, in connection with the said suit.
10. In the light of the above observations, WPA No. 18679 of 2023 is disposed of by granting liberty to the petitioner to approach the competent civil court for the relief sought against the private respondent.
11. There will be no order as to costs.

12. Urgent photostat certified copies of this order,
if applied for, be made available to the parties
upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)