

13.11.2024
Item No.19
gd/ssd

MAT/2050/2024
DHARMVEER SINGH AND ANR.
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2024

Mr. Bikash Ranjan Bhattacharya,
Mr. Anjan Bhattacharya,
Ms. Anita Shaw
..for the Appellants.

Mr. A. Banerjee,
Mr. D. Dinda
..for the State.

1. This intra court appeal by the writ petitioners is directed against the order dated 14.10.2024 in WPA 25279 of 2024 in which the appellants prayed for quashing FIRs in connection with Nabadwip Police Station Case No.537 dated 13.08.2024 and the Case No.312 dated 18.05.2024.

2. The learned Single Bench came to the conclusion that the FIR has been registered and prima facie materials have been found for proceeding with the investigation and also held that the High Court is permitted to entertain a challenge to an FIR only in extremely rare cases and the two cases registered against the appellants, in the opinion of the learned Single Bench would not fall within the said exception.

3. The learned senior advocate appearing for the appellants would contend that there are several

decisions of the Hon'ble Supreme Court which have held that the challenge to an FIR is maintainable under Article 226 of the Constitution of India. In this regard, reliance was placed on the decision of the Hon'ble Supreme Court in *Arnab Manoranjan Goswami v. State of Maharashtra and Others* reported in (2021) 2 SCC 427. Further, it is submitted that the learned Single Bench has gone through the case diary and has recorded a finding which gives the colour as if a prima facie case has been made out against the writ petitioners.

4. We have heard the learned advocate appearing for the respondent/State.

5. It is no doubt true that the Hon'ble Supreme Court has not completely barred the exercise of jurisdiction of the High Court under Article 226 for quashing of an FIR but, however, it is cautioned the High Courts that such exercise of power is to be done in extremely rare cases.

6. In our considered view, we find the cases on hand which are registered against the appellants cannot fall within the category of extremely rare cases. However, we are conscious of the fact that certain observations made by the learned Single Bench in the impugned order may affect the rights of the appellant/writ petitioners, in other proceedings that the appellant/writ petitioners may initiate.

7. Therefore, we are of the considered view, while upholding the decision of the learned writ court that the case on hand is not extremely rare cases for exercise of power under Article 226 by quashing of an FIR, we vacate all findings touching upon the merits of the matter and all such findings stands deleted from the impugned order.

8. Accordingly, the appeal stands disposed of with the above observations and leaving it open to the appellants to avail the other remedies available under the law.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)