

D/L 15
04.12.2024
Kausik
ct.no.35

W.P.A. 28396 of 2024

**Goutam Das
Versus
State of West Bengal & Ors.**

Mr. Sayan Banerjee
Mr. Aritra Ghosh

...for the petitioner.

Mr. Dipankar Dandapath

...for the private respondent no. 7.

Mr. Wasim Ahmed
Mr. Sk. Masud

...for the state.

Petitioner is aggrieved by the fact that inspite of orders passed by the learned Civil Judge (Junior Division) Amta, Howrah in TS No. 36/24, the private respondents have violated the directions and committed offences which are primarily cognizable offences.

It has also been alleged that the private respondent is an influential person (A member of the Thana Samannay Committee) and because of his influence the police authorities are refusing to act inspite of both violation of the civil court's order as well as alleged commission of offences at the behest of respondent no. 7 and his associates.

Learned advocate for the state has denied such contention that the respondent no. 7 happens to be a Member of Thana Samannay Committee.

Learned advocate for the state contends that according to his instructions there is already a case pending against the present petitioner. Further because of the dispute and differences in respect of the complaint alleged proceedings under section 126 of the BNSS has been drawn by the police authorities.

Learned advocate for the private respondent disputes and denies the contentions so advanced by the petitioner. It has further been submitted that the petitioner with the aid of the order passed by the civil court is exerting his influence for initiation of a criminal proceeding.

Be that as it may, prima facie from the communication made to the SP, Howrah with copies sent to the OC, Jaipur PS, Howrah, I am of the view that the police authorities should have acted on the information so furnished by the petitioner in the background that there was an order passed by the civil court which was being violated. In the alternative, the police authorities should have also come to a conclusion that the facts narrated by the petitioner, did not happen.

The police authorities having not acted gives rise to a cause of action for the petitioner to approach the jurisdictional court. Petitioner would approach the jurisdictional criminal court under section 175(3) of the BNSS.

The learned Magistrate would in the circumstances by adhering to the provisions of law pass appropriate orders.

In the meantime, it is also directed that the police authorities will keep a strict vigil and ensure that no breach of the peace and/or tranquility takes place and/or any untoward incident crops up because of the inimical relationship between the petitioner and the private respondent.

With the aforesaid observations WPA 28396 of 2024 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)