

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/144/2024
IN THE MATTER OF:
JAISWAL AKASH AND CO.
VS.
STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE JAY SENGUPTA

Date : 11th March, 2024

Appearance:
Mr Siddhartha Ray, Adv.
Mr. Rahul Verma, Adv.
For petitioner
Mr. Biswabrata Basu Mallick, Adv.
Mr. Sayan Ganguly, Adv.
For State.
Mr. Dipanjan Dutt, Adv.
Mr. Karan Dudhwewala, Adv.
Mr. Pravav Sharma, Adv.
For Respondent nos. 4, 7, 9, 11, 12, 13

The Court : Affidavit of service filed in Court today is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows.

The petitioner is a Chartered Accountant Firm. The petitioner has never given any service to the private respondents. In spite of this and by misusing the name of the petitioner, the private respondents indulged in fraudulent activities. This became evident by 26th November, 2018. A complaint was lodged with the police, but the same was not acted upon.

Learned counsel appearing for the private respondents denied the allegations and submits as follows. No prima facie case is made out as it would appear from a plain reading of the letter of complaint. This case has been filed only to harass the private respondent and extort money. In fact, over connected disputes the petitioner filed a money suit, which is still pending.

Learned counsel appearing on behalf of the State submits that if one is aggrieved with the police in not registering the FIR, it should approach the Magistrate under the Code of Criminal Procedure.

It appears that by the end of 2018, the petitioner had come to know about the fact that the alleged offence had occurred and that his complaint was not entertained by the police.

This is not a fit case where this Court would exercise its exceptional powers to direct registration of FIR by the police.

However, the petitioner shall be at liberty to file an application under Section 156(3) of the Code of Criminal Procedure after complying with the directions passed in by the Hon'ble Apex Court in the case reported at (2007) 6 SCC 171(Aleque Padamsee & Ors. Vs. Union of India & Ors.)

It is also made clear that this Court has not gone into the merits of the case and the learned Magistrate shall decide the application, if made, in accordance with law and without being swayed by any observation made by this Court.

With these observations, the writ petition is disposed of.

As no affidavits are called for, allegations contained in the application are deemed not to have been admitted.

(JAY SENGUPTA, J.)

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