

OD 10

WPO/415/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

VIKAS AGARWAL
VS
PUNJAB NATIONAL BANK AND ANR.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 15th May, 2024.

Appearance:
Mr. Sabyasachi Choudhury, Adv.
Mr. Rajarshi Dutta, Adv.
Mr. V.V.V. Sastry, Adv.
Mr. Debjyoti Saha, Adv.
...for the petitioner

Ms. Parna Roy Choudhury, Adv.
Ms. Payel Ghosh, Adv.
Ms. Sucheta Pal, Adv.
...for the respondent bank

The Court: Affidavit of service filed today be kept on record.

Learned counsel for the petitioner submits that the petitioner's father Vishambar Sharan had moved a previous writ petition bearing WPO/1626/2023 against a complaint lodged by the Punjab National Bank, a respondent herein as well, on the basis of which the Central Bureau of Investigation (CBI) registered an FIR. It is argued that the said complaint dated June 18, 2021 also named the present petitioner, the son of Vishambar Sharan, as an accused person. It is submitted that since the writ petitioner was not one of the co-petitioners in the

previous writ petition, the benefit of the order dated November 17, 2023 passed in WPO/1626/2023 setting aside the said complaint, ought also to be extended to the petitioner.

Learned counsel for the bank contends that pursuant to the said complaint, an FIR has already been registered by the CBI. As such, since the complaint has culminated in the said FIR, the former has merged in the latter. In any event, leave was granted to the petitioner to inform about the said order to the CBI and as such the present writ petition ought not to be entertained.

A bare perusal of the order dated November 17, 2023 passed in WPO/1626/2023 annexed at page 247 of the present writ petition shows that the Court, upon detailed reasoning, had set aside the self-same complaint of the bank which has been impugned herein, granting liberty to the petitioner therein to approach the appropriate forum seeking quashing of the consequential FIR only so far as the petitioner therein was concerned.

Since the present petitioner, the son of the writ petitioner in WPO/1626/2023, stands on an equal footing as his father, who was the writ petitioner therein, and as the common cause of action of the present writ petitioner and his father in the previous writ petition is furnished by the self-same complaint annexed at page 91 of the present writ petition, there cannot be any reason why the same benefit as that extended to the writ petitioner in WPO/1626/2023 should not be extended to the present writ petitioner as well. The fact of an FIR having been registered was also available to the parties on the date when the previous writ petition was disposed of and as such, does not furnish any change of circumstance.

In the light of the above observations, WPO/415/2024 is disposed of with the observation that the decision and observations made in the judgment and order dated November 17, 2023 in WPO/1626/2023 are equally applicable to the present writ petitioner as well. In order to avoid any doubt, it is made clear that the impugned complaint lodged by the PNB as annexed at page 91 of the present writ petition requesting the CBI to register an FIR, is also quashed and set aside in so far as the present writ petitioner is concerned. Liberty is granted to the present writ petitioner as well to approach the appropriate forum seeking quashing of the consequential FIR insofar as the present writ petitioner is concerned, including any ancillary action or investigation which might have commenced against the present writ petitioner on the basis of such FIR.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)