

WPA 5982 of 2025

**Basudeb Ghosh
versus
State of West Bengal & Ors.**

Mr. Debabrata Saha Roy
Mr. Indranath Mitra
Mr. Sankha Biswas

...For the petitioner

Mr. Debajyoti Datta, Sr. Adv.
Mr. Avishek Prasad

...For the State

Mr. Srijan Nayak
Mr. Ankit Surekha
Mr. Biplab Das

...For the respondent no. 2

Mr. Tapash Kr. Bhattacharya
Mr. Aviroop Bhattacharya

...For the respondent no. 3

1. The instant writ petition has been filed, inter alia, praying for a direction upon the respondents to disburse a sum of Rs.3,29,467/- which has been withheld from the petitioner's gratuity payable to the petitioner. It is not in dispute that the petitioner had obtained a loan by mortgaging ornaments which the petitioner claimed as gold.

2. It is an admitted position that the entire loan amount was not repaid by the petitioner. Records as produced reveal that a complaint was lodged by the respondent no. 3 since it was detected that the petitioner along with several other persons in connivance with one of the employees of the respondent no. 3, namely, Siddheshwar Ghosh had cheated the bank by mortgaging fake ornaments by passing of the same as gold ornaments. According to the complaint, the borrowers were not taking back the gold and had also not liquidated the loan amount and the aforesaid loan had become a non performing asset of the bank.

3. It is under such circumstances that the respondent no. 3 attempted to sell the gold in auction, when the aforesaid fact came to light. Following the aforesaid complaint, an FIR was prepared by the A.S.I. of Kotwali

Police Station on 13th June 2006, and a criminal proceeding was initiated. A charge sheet was also filed by the police authorities. The parties would jointly submit that charges have been framed on the basis of the charge sheet filed by the police authorities. Admittedly, the petitioner is an accused in the aforesaid criminal proceeding and charges have been framed against the petitioner.

4. It would also transpire from the record that in identical set of facts the Hon'ble Division Bench of this Court in the case of ***Siddheshwar Ghosh v. State of West Bengal & Ors.*** in FMA 3518 of 2014 by its judgment and order dated 11th April 2023 had refused to interfere with the order passed by the Learned Single Judge dismissing the writ petition.

5. Although, Mr. Mitra, learned advocate appearing for the petitioner by placing before this Court paragraph 9 of the aforesaid judgment delivered in the case of ***Siddheshwar Ghosh (supra)*** would submit that two accused persons had been able to obtain favourable orders and in the petitioner's case no exception thereto should be made, however, a perusal of the aforesaid judgment read conjointly with the charge-sheet would make it amply clear that the petitioner stands on the same footing as that of Siddheshwar Ghosh. A case of conniving with the aforesaid Siddheshwar Ghosh has been made out in the charge-sheet. From the charge-sheet it would also transpire that the petitioner has not cooperated in the investigation. He has avoided arrest.

6. Admittedly, the petitioner in this case is an FIR named accused and a charge sheet has also been

submitted against him. He is a named absconder as would appear from the charge-sheet. From the information slip as placed before this Court it would transpire that there has been progress in the criminal proceeding.

7. Having regard thereto, I am of the view that at this stage, the petitioner is not entitled to any relief. However, in the event, the petitioner is acquitted in the criminal proceeding, the petitioner shall be entitled to renew his prayer and at that stage he may be entitled to claim interest on account of delayed payment of gratuity.

8. The petitioner shall be at liberty to apply before the criminal Court for expeditious disposal of the proceeding.

9. With the above direction and observations, the writ petition is disposed of without any order as to costs.

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

(Raja Basu Chowdhury, J.)