

12.02.2025
Item No.2
gd/ssd

MAT/827/2023

SANTANA SETT
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2023, CAN/2/2023

Mr. Subhasis Chakraborty,
Mr. Srijib Chakraborty,
Ms. Sushmita Kumari Singh,
Mr. Amit Chowdhury
..for the Appellant.

Re: CAN 1 of 2023

1. This application has been filed by the appellant seeking condonation of delay of 51 days in filing this appeal.

2. Learned counsel for the appellant has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellant was prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 1 of 2023 is accordingly, allowed.
The delay in filing the appeal is condoned.

Re: MAT 827 of 2023

5. This intra court appeal is directed against the order dated 16th February, 2023 in WPA 27781 of 2022.

6. The respondents have been served and affidavit of service has been filed, which is taken on record.

7. None appears for the respondents.

8. The appellant/writ petitioner sought for action against the 7th respondent in the writ petition who was impleaded by name functioning at the relevant time as Sub-Inspector of Police, Golabari Police Station.

9. It is alleged that the 7th respondent exceeded his jurisdiction and had assaulted the writ petitioner with lathi, as a result, the petitioner sought for stern action against the 7th respondent in the writ petition.

10. Before the learned Single Bench the Commissioner of Police, Howrah had filed a report dated 15th February, 2023 from which it is seen that there has been a civil dispute between the petitioner and the private respondents and a suit is pending in TS No.991 of 2022.

11. Apart from that, the writ petitioner/appellant has lodged a complaint before the Golabari

Police Station in Case No.264 of 2022 dated 3.7.2022 and a case has been registered under Sections 341/323/325/506/34 IPC.

12. Apart from that, there are two other criminal cases registered in the same police station in Case No.374 of 2022 and Case No.375 of 2022.

13. The appellant seeks for action against the said Sub-Inspector of Police.

14. Admittedly, the criminal cases are pending in which it has to be established that the concerned Sub-Inspector of Police exceeded his jurisdiction.

15. This being a factual issue cannot be adjudicated in a writ petition.

16. However, since the appellant has already lodged a complaint and the case has been registered in Case No.264 of 2022 dated 3.7.2022, the same shall be investigated and taken to the logical end including the other two cases, namely, Case No.374 of 2022 and Case No.375 of 2022 and the Commissioner of Police, Howrah shall personally monitor the investigation.

17. Needless to state that since the Sub-Inspector of Police of the same police station is involved, it would be better to nominate an investigating officer who will be uninfluenced by any of the pressure that may be exerted on him since the allegation is against another police officer.

18. With the above observations, the appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)