

64. 24.12.2025
Court No.1
(PA)

**MAT 2284 of 2024
With
I.A. No. CAN 1/2024**

**Farid Sk & Anr.
-Vs.-
Samsuzzaman Sk. & Ors.**

Mr. Moniruzzaman, Adv.

...for the appellants

Mr. Vimal Kumar Shahi, Ld. AGP

...for the State

PER, AJAY KUMAR GUPTA, J.:-

1. This intra-court appeal has been filed against the order dated 13.12.2024 passed by the Single Bench of this High Court in WPA 29304 of 2024. By the impugned order, the Single Judge observed as under:-

“On 05.12.2024, proceedings under Section 126 of BNSS have been drawn by the police authorities. If the said proceedings have been submitted before the learned Executive Magistrate therein, the learned Executive Magistrate is directed to assess regarding the authenticity of the accusations and while accepting the bond, in that case if he finds that there is violation of law and order, he would direct the private respondents to stay outside the jurisdiction of Burdwan Police Station, Murshidabad.

With the aforesaid observations, the writ petition being WPA 29304 of 2024 is disposed of.”

2. The present appellants are the 5th and 6th respondents in the writ petition. They have challenged the said order on the principal ground that no notice was served upon them, and an ex parte order has been passed by the Single Bench.
3. The facts of the case before the Single Bench were that the brother of the petitioner lodged two complaints before the Officer-in-Charge, Burdwan Police Station, alleging, inter alia, that the petitioner's mother is the owner of a property within Mouza Sonavarui, Plot No. 1011. It was further alleged that a dispute concerning the said land was pending before the Hon'ble High Court at Calcutta, being RVW No. 129 of 2022 in C.O. No. 3880 of 2017. Notwithstanding the pendency of the said proceeding, it was alleged that the private respondents forcibly filled the said land by dumping soil and planting trees on it.
4. When the petitioner protested against such acts, the private respondents and their associates abused the petitioner in filthy language and attempted to assault the petitioner with an iron rod. On 21.09.2022, when the petitioner's brother was not at his residential house, the private respondents abused the petitioner's minor daughter in obscene and offensive terms.
5. Such complaints were diarized vide G.D.E. No. 765 dated 14.08.2022 and G.D.E. No. 1147 dated 22.09.2022.

6. The private respondent filed a writ petition before this Hon'ble High Court being WPA No. 19577 of 2024 and on 25.09.2024, the Hon'ble Single Bench was pleased to direct as follows:

"Affidavit-of-service so filed by the petitioners be kept the record.

Report submitted by Mr. Yusuf, learned Additional Government Pleader, be also kept with the record.

A copy of the report be handed over to the learned advocate appearing on behalf of the petitioners.

In respect of the grievance, I find that the police authorities registered a case and subsequently submitted chargesheet before the jurisdictional court. However, the petitioners are aggrieved in respect of the private respondents' continuously threatening, in spite of an order passed by the civil court. The petitioners claim that they are in possession of the constructed property and they have been threatened, harassed and their egress and ingress are being disturbed. Majority of the disputes and complains are civil in nature.

However, having considered that the petitioners are already in possession and until and unless there is any alteration of the order passed by the civil court or by any higher forum, the Inspector-in-Charge/Officer-in-Charge, Burwan Police Station would keep a strict vigil and see that no breach of peace and tranquility takes place at the locale at the instance of either of the parties.

With the aforesaid observations, WPA No. 19577 of 2024 is disposed of."

7. The petitioner informed the respondent no. 4 i.e. the Officer-in-Charge, Burdwan Police Station, but the respondent no. 4 also threatened the brother of the

petitioner and told the petitioner's brother that he would implicate the latter in false cases. No steps were taken by the Police authorities.

8. Having heard the parties and on perusal of the order impugned, this Court is of the view that, the Civil Court shall pass necessary orders insofar as the civil disputes are concerned. At the same time, the police authorities have already started proceedings under Section 126 of the BNSS before the learned Executive Magistrate. Accordingly, the Single Judge, after hearing the petitioner, passed an order and directed the learned Executive Magistrate as aforesaid.
9. The provision of 126 of BNSS is very clear. It relates to security for keeping the peace in other cases. It seeks to provide that when an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond or bail bond, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.
10. In the above backdrop, this Court is of the view that the Single Bench has rightly passed such order, which is innocuous, and none will be prejudiced by the same.

Accordingly, the impugned order calls for no interference. However, we do not preclude the parties from approaching before the appropriate forum if any disturbance or any threat occurs invoking the relevant provisions of law.

11. Accordingly, **MAT 2284 of 2024** is **dismissed**. **CAN 1 of 2024** is, thus, disposed of.
12. There shall be no order as to costs.
13. Parties shall act on the server copy of this order duly downloaded from the official website of this Court.
14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Ajay Kumar Gupta, J.)

(Sujoy Paul, ACJ)