

In The High Court at Calcutta
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 4268 OF 2026

AMITAVA DE BHOWMICK
VS.
THE STATE OF WEST BENGAL AND OTHERS
.....

Mr. Pawan Kumar Gupta, Adv.
Mr. Sk. Sahil Ahad, Adv.
...For the Petitioner

Mr. Suryaneel Das, AGP
Ms. Anita Kundu, Adv.
Ms. Sumita Sarkar, Adv.
...For the State

Mr. Atreya Chakraborty, Adv.
Mrs. Sanchayita De, Adv.
...For the Respondent Nos.6 & 7

1. Matter is heard in presence of the learned advocates representing the petitioner, State respondents and respondent nos.6 & 7.
2. It is contended on behalf of the petitioner that in spite of lodging complaint, cognizance of the complaint was not taken by the concerned police authorities prompting the petitioner to approach this Court with the present writ petition seeking necessary direction which would lead to initiation of criminal prosecution by registering FIR.
3. It is submitted on behalf of the parties that dispute cropped up due to violation of terms and conditions of an agreement made between the petitioner and the respondent nos.6 & 7 for purchasing a godown which was to be constructed by the petitioner being the Developer.
4. Learned advocate representing the respondent nos.6 & 7 has made submissions disputing the contention of the petitioner. It is submitted that in terms of the agreement made between petitioner and respondent

nos.6 & 7, certain payments were made by the respondent nos.6 & 7 in favour of the petitioner but petitioner was unable to complete construction of the said godown in question.

5. Mr. Suryaneel Das, learned Additional Government Pleader has filed a communication dated 2nd July, 2026 of Officer-in-Charge, Manicktala Police Station, Kolkata and same is taken on record. Copies of the said communication dated 2nd July, 2026 are made over to the learned advocates representing the petitioner and the respondent nos.6 & 7.
6. It is disclosed in the said communication dated 2nd July, 2026 that previously based on complaint of the petitioner a criminal prosecution being Manicktala P.S. Case No.278 of 2015 was initiated under certain provisions of IPC read with Sections 25(1B)(a)/27 of Arms Act.
7. Thereafter on completion of investigation in connection with the aforesaid criminal prosecution it was reported as "*Mistake of fact*". Then there was further investigation by the concerned police authorities but it did not yield result since it was also reported "*Mistake of fact*".
8. Aforesaid communication dated 2nd July, 2026 also discloses a long standing dispute between the petitioner and the respondent nos.6 & 7.
9. If petitioner is aggrieved by failure on the part of the respondent nos.6 & 7 in following the terms and conditions of the said agreement, in that event, petitioner needs to approach the Civil Court in pursuit of remedy.
10. In this writ petition, *inter alia*, grievance as ventilated on behalf of the petitioner is that after

lodging complaint by the petitioner same was not taken into consideration by the concerned police authorities by initiating criminal prosecution.

11. If petitioner is aggrieved by in-action on the part of the police authorities by not initiating criminal prosecution based on the complaint lodged by the petitioner, there is an alternative remedy available to the petitioner by approaching jurisdictional Magistrate under Section 175(3) of Bharatiya Nagarik Suraksha Sanhita, 2023.
12. Hence, writ petition is not entertained and same stands dismissed.
13. However, this order shall not preclude the petitioner to approach the appropriate forum, in accordance with law.
14. Urgent photostat certified copy of the order, if applied for, be given to the parties upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)