

16.04.2026
SL No.1
Court No.12
(gc)

**FMA 1435 of 2022
CAN 1 of 2023**

**Mukti Saha & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Subir Kumar Bhattacharyya,
Ms. Pinky Dey

...for the Appellants.

Mr. Lalit Mohan Mahata, Ld. A.G.P.,
Mr. Ziaul Haque

...for the State.

Mr. Pradip Kumar Roy, Sr. Adv.,
Mr. Jaydeep Roy,
Mr. Partha Sarathi Pal

...for the Respondent Nos.2 & 3.

1. The appellants are aggrieved by an order dated September 13, 2022 passed in WPA 18130 of 2022. By the order impugned, the learned Court did not entertain the writ petition and dismissed the same on the ground that, in view of the pendency of a criminal case, no further orders should be passed in the writ petition.
2. The learned Court allowed the appellants to avail of their remedy before the Civil or Criminal Court.
3. The writ petition was filed for an order upon the Belgharia Cooperative Credit Society Ltd. to resume its business in which the appellants had a locker and a savings account.

4. His Lordship rightly held that, in view of the pending criminal proceeding and filing of the charge-sheet upon conclusion of the investigation, orders prayed for in the writ petition, could not be passed. His Lordship left it open to the appellants to approach the appropriate court in accordance with law.
5. We do not find any illegality in the order impugned.
6. The report of the police authorities clearly indicates that one of the staffs of the Co-operative Society produced eight keys of Godrej Company at Belghoria Police Station on November 1, 2023 which was duly seized by Sub-Inspector Sukanta Das. The said staff, namely, Ashish Chakraborty, also informed the police that he did not have any knowledge about the belongings inside the lockers/vaults which were only operated by the customers. He was only the custodian of the keys, since 2000.
7. The documents in support of such report have also been annexed to the report, which we have considered.
8. The Commissioner of Police, Barrackpore also filed a report in this proceeding, inter alia, stating that the duty officer, Belghoria Police Station, received a complaint vide M.P. Case No.1651/19 under

Section 156(3) of the Code of Criminal Procedure filed by one Gouranga Nag, son of Late Narendra Nath Nag, the then Secretary of the Belgharia Co-operative Credit Society Limited. The complaint was against Raj Banerjee, the then accountant and Ashish Chakraborty, the then cashier. The contents of the complaint was that sometime in 2015, when the Society was undergoing financial problems, the committee came to learn through an internal enquiry that about Rs. 36 lakhs belonging to the society was defalcated by the alleged accused persons. Various departmental steps were taken to address the issue, but in vain. Finally in the year 2017, members of the board decided to take legal steps. On the basis of the said complaint, Belghoria Police Station Case No.04 of 2020 dated January 1, 2020 under Section 406/379/468/471/120B of the Indian Penal Code was registered against Raj Banerjee and Ashish Chakraborty.

9. Upon conclusion of the investigation, charge-sheet vide Belghoria Police Station Charge Sheet No.169 of 2021 dated March 31, 2021 under Section 406/468/471/120B of the Indian Penal Code was filed. Raj Banerjee and Ashish Chakraborty surrendered before the learned Additional Chief Judicial Magistrate, Barrackpore. Cognizance was

taken by the concerned Court on August 1, 2023 against Raj Banerjee and Ashish Chakraborty. The matter is now pending trial.

10. Under such circumstances, it is not possible for us to pass any direction upon the Co-operative Society to commence its business, especially in view of the proceedings before the learned Criminal Court.

11. Our predecessors had directed the Special Officer, Belgharia Co-operative Credit Society Ltd. and Inspector of Co-operative Societies, KPK WSCCS Ltd. to cause an inventory with regard to the articles within the premises of the society and a report has been filed accordingly which is kept with the records.

12. The list of inventories upon breaking open the padlock of the society on September 30, 2023 comprise of the size of the room of the society and the articles inside the office of the society, etc. The keys to the vault have already been seized by the police and trial has commenced.

13. Under such circumstances, the remedy of the appellants will be before the learned Trial Court. The appellants are also entitled under the law to raise a dispute under Section 102 of the West Bengal Co-operative Societies Act, 2006 with regard

to all their grievances which the appellants have as members of the society against the society itself. How the society can compensate the members is also a dispute which must be decided under the law. The dispute case shall proceed independently and shall address the issues raised by the members of the society against the society and its office bearers.

14. Accordingly, the appeal and the connected application are disposed of.

15. The learned Trial Judge is requested to conclude the trial expeditiously as it appears that the matter is pending since long and also because the members contend to have lost their money and other precious items which have been siphoned off.

16. There shall be no order as to costs.

17. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)