

(2020) 02 CAL CK 0042
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 611 Of 2019

Meraj Rashid

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 11-02-2020

Acts Referred:

Constitution Of India, 1950 — Article 226
Code Of Civil Procedure, 1908 — Order 39 Rule (2A)
Code Of Criminal Procedure, 1973 — Section 144(2)

Citation : (2020) 02 CAL CK 0042

Hon'ble Judges : Sabyasachi Bhattacharyya, J

Bench : Single Bench

Advocate : Joyak Gupta, A. Rosul, Mainak Swarnokar, Sipra Mazumder, Dipali Halder

Final Decision : Disposed Of

Judgement

Sabyasachi Bhattacharyya, J

The Court : Affidavit of service filed in Court today be kept with the record. The petitioner has approached this Court with the grievance that, by

virtue of an order obtained by the private respondents under Section 144 (2) of the Code of Criminal Procedure, the private respondents have been

harassing the petitioner regularly with the help of the local police, despite the subsistence of an injunction order against the private respondent passed

by a Civil Court in favour of the petitioner.

Learned Counsel for the petitioner submits that already proceedings have been taken out for implementation of the Civil Court's order, before the

said Court.

On query of Court, learned Counsel for the petitioner further informs the Court

that in the meantime, the proceeding under Section 144 (2) of the Code of Criminal Procedure has been dropped.

As such, despite the petitioner having lodged an independent complaint with the police authorities, the grievance ventilated herein falls entirely within

the domain of the Civil Court, either for violation of the injunction order under order 39 Rule (2A) of the Code of Civil Procedure or for implementation

of such order by police help, both of which remedies can be availed of by the petitioner only before the Civil Court. Since adjudication of the

respective rights of the parties is pending before the Civil Court, it would be unwise for this Court, under Article 226 of the Constitution of India to

interfere in the matter. The matter would best be left to the discretion of the Civil Court, since the petitioner has already taken steps alleging violation

of the injunction order passed by the said Court.

Accordingly, WP 611 of 2019 is disposed of by granting the petitioner liberty to ventilate all the grievances taken in the present writ petition before the

Civil Court, an injunction order of which is allegedly being violated by the private respondents.

There will be no order as to costs.

Urgent certified copies of this order, if applied for, be made available to the parties upon compliance of requisite formalities.