
(2012) 06 CAL CK 0044
In the Calcutta High Court
Case No : Writ Petition No. 20776 (W) of 2009

Sakti Ranjan Mukhopadhyay

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 08-06-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2012) 4 CHN 689

Hon'ble Judges : Joymalya Bagchi, J

Bench : Single Bench

Advocate : Sakti Ranjan Mukhopadhyay in-person, for the Appellant; Galib respondent for the State, for the Respondent

Judgement

Joymalya Bagchi, J.—This writ petition has been filed by the petitioner, inter alia, praying that the complaints of petitioner be referred to Director, Central Bureau of Investigation, Eastern Region, Kolkata or any other agency like C.I.D. West Bengal, for investigation. The grievances of the petitioner are as follows :

The petitioner married respondent no. 7 on 04.02.1987. The family of the respondent no. 7 alleged that the petitioner was impotent. The petitioner suspected respondent no. 7 of having an affair with his younger brother. A daughter was born to the couple on 08.03.1988. Over such matrimonial dispute the petitioner left his parental home at 2/198, Bijoygarh, Kolkata - 700 032. The petitioner claimed that he had built a house, named and styled, "Mayer Ashis" at Ichapur, North 24-Parganas but was unable to stay therein due to the ill-treatment meted out by respondent no. 7 herein. Unable to bear such torture at the hands of respondent no. 7, the petitioner brought such dispute to the notice of West Bengal Human Rights Commission and, on 23.05.1990, the petitioner was compelled to make an application for voluntary retirement which was accepted by his office. Finally on 13.12.1990, the respondent no. 7 alleging that the petitioner was insane drove him out of his residence and the latter took

refuge at Bharat Sevashram Sangha and started working as a primary teacher at its residential school. On 10.01.2000 the respondent no. 7 lodged a missing diary at Nawpara Police Station claiming that the petitioner was missing from the said residence. In the meantime, the respondent no. 7 instituted a proceeding u/s 125 Cr.P.C. being M Case No. 354/2005 where the petitioner was directed to pay an amount of Rs. 500/- (Rupees Five Hundred) per month to his daughter, Tanaya. The respondent no. 7 also filed a civil suit being Title Suit No. 48/06 before the learned Civil Judge, Jr. Division, 4th Court, Sealdah praying for a declaration and injunction in respect of the said residential house. Subsequently, by order dated 02.02.2010 the suit filed by the respondent no. 7 was dismissed. The petitioner, on the other hand, filed a divorce suit at Barasat being Mat Suit No. 82/05 before the learned Additional District, Judge, 7th Court, Barasat, which was subsequently transferred to the Court of the learned Additional District Judge, Barrackpur and renumbered as Mat Suit No. 547/09.

2. The said suit is stayed due to proceedings pending before this Court. In the meantime, the petitioner filed a complaint with the SDPO, Barrackpur on 21.04.2006 with regard to the unlawful and wrongful acts of respondent no. 7. Subsequently, the petitioner started residing at Shri Ramkrishna Matananda Ashram, Bakreswar, managed by respondent nos. 8 and 9.

3. The respondent no. 9 being induced by the respondent no. 7 issued a notice of exilement upon the petitioner. The petitioner was constrained to file a civil suit being Title Suit No. 59/07 in the Court of the learned Civil Judge, Jr. Division, Birbhum against the wrongful acts of respondent nos. 8 and 9 and has obtained an order of injunction therein.

4. Being aggrieved by such continued wrongful and unlawful acts of respondent no. 7, particularly that of portraying the petitioner as an insane person and throwing him out of his own residence, the petitioner has approached this Court praying for an investigation by Central Bureau of Investigation or CID, West Bengal into such wrongful conduct of the respondent no. 7 and her associates. Hence this writ petition.

5. The petitioner has subsequently filed an application stating further facts to supplement the allegations in the writ petition being CAN No. 7163 of 2011.

6. In spite of notice, nobody has appeared for the private respondents.

7. The petitioner has argued in person and has supplemented his oral arguments with written submissions.

8. After hearing the petitioner and after considering his oral and written submissions, I find that the crux of the dispute is a matrimonial discord between the petitioner and his estranged wife, the respondent no. 7 herein. There is a divorce proceeding pending by and between the parties. The main grievance as ventilated in his pleadings is that the respondent no. 7 has falsely claimed that the writ petitioner is an insane person and she has wrongfully dispossessed him

from the peaceful possession and enjoyment of his own house.

9. According to me, the aforesaid disputes can be enquired into and decided by resorting to ordinary civil and criminal proceeding and the invocation of the writ jurisdiction of this Court seeking for a direction for investigation by a specialised agency like CBI or CID is wholly unwarranted in the profile of the instant case. As pointed out by me earlier the dispute in the instant case is a matrimonial discord between the parties and investigation of an alleged crime in relation thereto may very well be conducted by the ordinary investigating agency under Chapter 12 of the Code of Criminal Procedure. I am of the opinion that the petitioner has not been able to make out a case for exercise of jurisdiction of this Court in directing his complaints to be investigated by a specialised agency like CBI in view of law declared by the Apex Court in the case of State of West Bengal and Others Vs. The Committee for Protection of Democratic Rights, West Bengal and Others,

10. In the said judgement, the Supreme Court directed that only in rarest of rare cases the High Court under Article 226 of the Constitution may direct investigation of a crime to be conducted/transferred to the Central Bureau of Investigation without permission of the State Government u/s 6 of the Delhi Special Establishment Act, 1946.

11. The scenario depicted in the present case does not impress me to invoke such extraordinary power to refer the matter for investigation by CBI or any other specialised agency. Hence, the instant writ petition is dismissed

12. I make it clear that the dismissal of the instant writ petition would not stand in the way of the petitioner resorting to statutory remedies under the Code of Criminal Procedure in accordance with law for redressing the alleged grievances as ventilated in the instant petition, if he is so advised.

13. With the aforesaid directions, the instant writ petition and the connected application are disposed of.

14. There shall be no order as to costs. Urgent certified photostat copy of this order be given to the parties, if applied for, subject to compliance with all necessary formalities.