
(2020) 03 CAL CK 0050

Calcutta High Court

Case No: C. Appeal From Order (FMA) No. 404 Of 2020 With Civil Application (CAN) No. 7401
Of 2019

Debjyoti Bhattacharjee

APPELLANT

Vs

State Of West Bengal &
Ors

RESPONDENT

Date of Decision: March 2, 2020

Acts Referred:

- Constitution Of India, 1950 - Article 226
- Code Of Criminal Procedure, 1973 - Section 482

Hon'ble Judges: Sanjib Banerjee, J; Hiranmay Bhattacharyya, J

Bench: Divison Bench

Advocate: Aniruddha Roy, Sudipto Kumar Bose, Ayon Kumar Boral, Lipika Nath, T.M. Siddiqui, Nilotpal Chatterjee, Rahul Karmakar, Fauzia Ahmed, S. Pal Choudhuri, S. Sikder, D. Nandi, Varun Kedia, V. R. Rao, A. Rao, Sourav Chatterjee, Soumya Nag

Final Decision: Disposed Of

Judgement

The writ petitioner is in appeal upon no effective order being passed on his petition under Article 226 of the Constitution complaining of inaction on the

part of the police authorities in carrying out an investigation pursuant to his complaint lodged in the year 2017.

According to the appellant, he has inherited a property at 37B, Block A, New Alipore from his father and neither his father nor the petitioner

had ever furnished the property by way of security for any loan or credit facilities obtained from any bank or financial institution. However, during the

lifetime of the appellant's father, proceedings were instituted by United Bank of India and United Commercial Bank in respect of the property on

the allegation that the petitioner's father was the guarantor in respect of credit facilities granted by such banks to third parties and that the property had been mortgaged in favour of such banks.

The appellant claims that his father had not guaranteed repayment of any loan obtained from any bank by any third-party nor did his father furnish the

New Alipore property by way of security to any bank. The appellant claims that his father had made over title deeds to an acquaintance in connection

with a proposed transaction and such acquaintance may have misused the title deeds without the knowledge of the appellant's father.

It is submitted on behalf of the appellant that the appellant's father came to know the fraudulent claims of the two banks some time around 2002.

However, it does not appear that the appellant's father took any immediate steps to institute a suit to recover the title deeds or to dissociate

himself from the transactions as claimed by the banks. Indeed, it appears that substantial payments were made by the appellant or the appellant's

father to the banks; though the appellant claims that such payments were made to buy peace and to protect the property.

The immediate grievance of the appellant is that despite a police complaint being lodged in 2017, the investigation has not yet been completed nor any

steps taken against any person, though a preliminary report suggests that a case of fraud has been discovered in course of the investigation.

Both UCO Bank and United Bank of India are represented and such banks insist that the appellant's father had mortgaged the relevant property

to the banks and had also stood guarantor in respect of transactions with third parties.

The State says that the investigation is in its final leg and seeks time for about two or three months for the investigation to be completed.

Considering that the complaint was lodged in the year 2017 and the fact that the investigation ought to have been completed by now, the time to file

the charge sheet or appropriate final report is extended till March 31, 2020. Such direction is peremptory. The State will take the matter to its logical

conclusion in the event any wrongdoing has been discovered in course of the investigation.

It will be open to the appellant to institute an appropriate civil suit to recover the title deeds or any money that the appellant may have been constrained

to pay on behalf of third parties. It is needless to say that both the banks should be parties to the suit.

Nothing in this order will impinge upon the appropriate Bench taking up the petition under Section 482 of the Criminal Procedure Code against the

complaint lodged by the appellant herein.

FMA 404 of 2020 along with CAN 7401 of 2019 are disposed of on the above basis and without any order as to costs.