

**14.12.2022**

Sl. No. 26.

Mithun.

Ct.No.42.

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**CRR/4400/2022**

**Md Ayub & Ors.**

**Vs.**

**State of West Bengal & Anr.**

Mr. Chinmoy Pal, Adv.

Ms. Archan Dutta, Adv,

...for the petitioner.

Mr. Niladri Sekhar Ghosh, Adv.

Mr. Sahhawat Khandakar, Adv

Ms. Somparna Chatterjee, Adv.

Mr. Sourav Mondal, Adv.

...for the de-facto complainant.

Leave is granted to the learned Advocate on record for the petitioners to include the name of the de-facto complainant as opposite party No.2.

Supplementary affidavit be taken on record.

Petitioners are the accused persons in connection with Cossipore Police Station Case No.95 dated 7<sup>th</sup> August, 2022 under Sections 324/326A/114 of the Indian Penal Code corresponding G.R. No.1963 of 2022.

Being aggrieved against an order dated 28<sup>th</sup> October, 2022 passed by the learned Additional Chief Judicial Magistrate at Sealdah issuing warrant of proclamation and attachment against the petitioners, they have filed the instant revision.

I have perused the impugned order dated 28<sup>th</sup> October, 2022. It appears that it was passed by the learned Magistrate

without subjective satisfaction of the requirements under Section 82(1) of the Code of Criminal Procedure.

Mr.Niladri Sekhar Ghosh, learned Advocate appears on behalf of the opposite party No.2/de-facto complainant.

I have also heard the learned Advocate for the de-facto complainant.

On perusal of the impugned order it is clear that the order of issuing of WPA against the petitioners was not passed following the provision of Section 82 of the Code of Criminal Procedure. Therefore, the instant order liable to be set aside. Accordingly, the revisional application is allowed.

The order of issuance of WPA by the learned Magistrate on 28<sup>th</sup> October, 2022 is set aside.

The instant revision is accordingly allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requiwire formalities.

**(Bibek Chaudhuri, J. )**