

11 19.10.2023
AN Ct. No. 01

MAT 1473 of 2023
(CAN 1 of 2023)
Uday Sankar Ghosh
Vs.
Pranab Kumar Bhattacharya & ors.

Mr. Subhabrata Dutta
Mr. Debasish Sarkar

... for the appellant

Mr. Santanu Kumar Pal
Mr. Amartya Pal

... for the State

1. This third party appeal has been filed after taking leave of this Court challenging the order dated 03.07.2023 passed in WPA 15624 of 2023. By the said order the appellant who was not impleaded by name in the writ petition, was directed to be transferred to another Police Station and to such effect, a direction was issued to the Superintendent of Police, Malda. Apart from that, the Court has also observed that it has entertained a number of writ petitions and has occasion to consider allegations against the appellant by mentioning the appellant's name in paragraph 3 of the impugned order. Admittedly, the appellant was not impleaded by name in the writ petition, nor any notice was issued by the Court to the appellant individually to answer to any of the allegations which were made against him. In the writ petition, the 7th respondent is the Officer-in-Charge of Kaliachak Police Station, Malda. However, during the relevant time, the appellant was the Officer-in-Charge of the said Police Station. Thus, the 7th respondent in the writ petition has been impleaded by

designation and not by name. By the impugned order, a direction has been issued which directly affects the appellant in his individual capacity. Thus, without issuing any notice to the appellant such a direction could not have been passed.

2. For such reasons, the appeal stands **allowed** and the order dated 03.07.2023 is set aside.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)