

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Ajay Kumar Gupta

M.A.T. 8 of 2024
(CAN 1 of 2024)

The Commissioner of Police, Siliguri Police Commissionerate
& Ors.

-Vs-

Indian Institute of Legal Studies & Ors.

For the Appellants : Mr. Nabankur Paul, Adv.

For the respondent : Mr. Ajay Singhal, Adv.
No.1

Heard on : 15.05.2024

Judgment on : 15.05.2024

Joymalya Bagchi, J. :-

1. Learned Advocate for the appellants submits that appellant nos.1 & 2 do not wish to press the appeal.
2. Accordingly, the appeal stands dismissed as not pressed so far as the said appellants are concerned.

3. Appellant no.3 is the Investigating Officer of the case. It is submitted on his behalf that without giving an opportunity of hearing adverse comments were recorded in the impugned order and he was directed to be transferred at least 500 kms. away from his present place of posting. He prays that the adverse remarks and the impugned direction be set aside.
4. Facts giving rise to the aforesaid directions are as follows :-
Respondent no.1/writ petitioner had lodged FIR at Matigara Police Station alleging that the Teacher-in-charge of Falakata B.Ed. College i.e. respondent no.2 had misappropriated over Rs. 30 lakhs from the account of the said college. Appellant no.3 was entrusted with the investigation of the case. It is alleged he did not conduct the investigation in an effective manner and failed to arrest the accused. A prayer was made to transfer the investigation to a specialised investigating agency namely, Criminal Investigation Department (CID).
5. During hearing before the First Court the wife and the daughter of respondent no.2 were summoned. They contended they were unaware of the whereabouts of respondent no.2 and had lodged a missing diary.
6. Under such circumstances, by order dated 06.12.2023 investigation was transferred to CID. Within ten days respondent no.2 was arrested.

7. Taking note of these facts the learned single Judge held as follows :-

“The Investigating Officer of Matigara Police Station is wholly inefficient. He should be transferred at least 500 kilometres away from his present posting in the State of West Bengal.”

8. Appellant no.3 contends he had made earnest efforts to arrest the respondent no.2 but failed.
9. On perusing the records learned single Judge was of the view the appellant no.3 had acted in an indolent manner. In such circumstances, it would have been incumbent upon the learned Judge to call upon the appellant no.3 to submit explanation with regard to his conduct. Without doing so the learned single Judge held appellant no.3 was inefficient and directed him to be transferred to a place 500 kms. away from his present place of posting.
10. I am constrained to hold the said directions were in violation of the principles of natural justice and are liable to be set aside.
11. I clarify this order shall not stand in the way of superior authorities to take note of the conduct of the appellant no.3 in the present case and initiate appropriate proceedings against him in accordance with law, if so advised.
12. MAT 8 of 2024 is accordingly, disposed of.
13. In view of disposal of the appeal, connected application being CAN 1 of 2024 is also disposed of.

14. There shall be, however, no order as to costs.
15. Urgent photostat certified copy of the judgment, if applied for, be given to the parties on usual undertaking.

I agree.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

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