

In the Court of 1st special Judge, Birbhum at Suri

Special Case– 01 of 2021

(Regn:- 03/2021)

CNR : WBBB-01-000976-2021

Present :- Smt. Sudeshna De(Chatterjee),(JO Code : WB00580)
Sessions Judge, Birbhum

Order No.- 63

22-12-2023

Today is fixed for hearing of the petitions.

The sole accused person, namely Safiul Alam, is produced from J/C and remanded to J/C till date.

Ld. Advocate for the accused persons are present.

Ld. Junior of Special PP, Advocate Santanu Das, is present and submits that, Ld. Special PP, Bivas Chatterjee, is unable to attend the Court physically, and prayed for hearing through video conference.

The prayer is allowed.

The System Officer is directed to make necessary arrangements at once.

Accused be produced on 22.01.2024

Dictated and corrected

Judge 1st Special Court,
Birbhum
JO Code : WB00580

Judge 1st Special Court,
Birbhum
JO Code : WB00580

Later

22-12-2023

Accused is also produced before this Court and he is remanded to J.C till 22.01.2024.

As per previous order, System Officer is present and a link (<https://meet.google.com/ndx-afsh-fke>) has been created for video conference through “Google Meet” and conveyed to Ld. Special PP.

Link connected and heard Ld. Special PP virtually.

Heard Ld. Advocate for the accused person.

At the time of hearing, Ld. Special PP submits that by way of filing petition, Ld. Advocate for the accused has adopted dilatory tactics so that evidence could not be completed within the stipulated period. In earlier occasion, the Ld. Advocate also filed similar petition dt. 25.08.2023 wherein the defence wanted to bring certain documents as evidence. That

Contd....

Special Case– 01 of 2021

Contd...22.12.2023

petition also fixed for hearing today but there was an observation vide Order no. 55 dt. 13.09.2023 that the said prayer will be considered after closing of prosecution evidence or / at the time of examination of the accused person under Section 313 Cr.P.C. It has been also submitted that this case is based on digital evidence, if delay is caused, prosecution will be in trouble as there might be difficulties to bring evidence on record. It has been also submitted that both the documents, which the Ld. Advocate for the accused wanted to bring in evidence are not related with the alleged charge but related with departmental proceeding. As the departmental enquiry report is not conclusive one, Ld. Special P.P. prays for passing necessary order by referring the citation **AIR 2001 SC 1158 :: 2001 AIR SCW 841**.

Ld. Advocate for the accused is personally present.

On the contrary, it has been submitted by the Ld. Advocate for the accused that if those two documents being circulars no. INV-21/1/2022-INV-DOP & 8-01/2019-Inv are not called for and not brought in evidence, the accused will be highly prejudiced. Ld. Advocate also pointed out the demeanor of the witness by stating that initially the witness admitted those documents and gave his assent to assess their veracity but subsequently, the witness (PW-2) denied to check the veracity of those documents. He further submits that PW-2 is the head of the Departmental Enquiry Team and Departmental Enquiry Report is already brought in to the evidence by the prosecution which the Court might rely at the time of passing judgment. In such circumstances, if those two circulars being no. INV-21/1/2022-INV-DOP & 8-01/2019-Inv are not admitted in evidence, it will cause prejudice the accused person and accordingly prays for passing necessary order for allowing both the petitions dt. 13.12.2023.

Having regard to the submission of both sides, I have perused the record.

It appears that the two petitions were filed by the Ld. Advocate for the accused, first one is for calling which is for two circulars being no. INV-21/1/2022-INV-DOP & 8-01/2019-Inv from the Superintendent of Post Office, Birbhum Division, Suri, Birbhum and another is for hearing of the petition dt. 25.08.2023.

Contd....

Special Case– 01 of 2021

Contd...22.12.2023

On perusal of the order sheets, it appears that it has already been observed vide order no.55 dt. 13.09.2023, that the petition dt. 25.08.2023 would be considered after closing of prosecution evidence and on or before the examination of the accused under Section 313 Cr.P.C. So this petition cannot be entertained at this stage and accordingly, be kept with the record which will be heard along with the petition dt. 25.08.2023

So far another petition for calling two circulars being no. INV-21/1/2022-INV-DOP & 8-01/2019-Inv from the Superintendent of Post Office, Birbhum Division, Suri, Birbhum is concerned, I am of considered opinion that to save time and for speedy disposal of the case and keeping in view the direction of the Hon'ble High Court Calcutta and as the accused is languishing in J.C for more than a year, I am of the view that proper justice would be served if those two circulars (photocopies) be marked as **Exhibit-D & D/1 respectively** with objection. The petition dt.13.12.2023 is thus disposed of on contest without cost.

To **22.01.2024** for cross-examination of PW-2 and production of the accused.

BC-I is directed to do the needful.

Dictated and corrected

Judge 1st Special Court,
Birbhum
JO Code : WB00580

Judge 1st Special Court,
Birbhum
JO Code : WB00580