

**Sessions Case No. 102 of 2018 (CIS No. 104/2018)**

**CNR NO.WBBB05-000629-2018.**

**Order No.58.**

**03-01-2026**

Today is fixed for further evidence on behalf of the prosecution and for appearance of the accused persons.

Accused Rumi Bibi on Court bail is absent and is represented by her Ld. Counsel u/s 317 Cr.P.C.

The other four accused persons namely, Bapi Sk @ Ditu Sk, Mithu Sk, Anarul Sk and Sanarul Sk on court bail are present and file hazira.

Summons upon CSW No. 13 S.I. Pritam Roy, who happens to be the I.O. of this case, is returned after due service.

An intimation has been received from Nanoor P.S. that S.I. Pritam Roy is engaged in law and order duty, due to which it will not be possible for him to appear before this Court on this day.

Summons upon the CSW No. 10 C/373 Sudhakar Mishra is not returned after service. Consequently, this Court cannot form the opinion that the concerned witness has evaded the deposition before the Court despite receipt of summons.

The Ld. Panel P.P. agitated before the Court that this is the 3<sup>rd</sup> occasion, where summons have been sent to S.I. Pritam Roy but he has not entered his appearance before the Court. It is further contended that the conduct of this particular witness is generally bad and he has been found to evade appearances before the Court, in several such cases.

Sessions Case No. 102 of 2018 arose from Mayureswar P.S. Case No. 167 of 2017 dt. 04.7.2017 u/s 498A/384/306 of the I.P.C. read with section 3/ 4 D.P. Act. The I.O. caused investigation of the case and eventually submitted charge sheet on 13.10.2016 u/s 498A/306 of the I.P.C. read with section 3/ 4 of the D.P. Act. Charge was framed against five accused on 23.4.2019 u/s 498A/306/384/34 of the I.P.C. As has been observed previously, this is the 3<sup>rd</sup> consecutive occasion on which the I.O. has failed to enter his appearance before the Court. On the previous two occasions, he did not even bother to send an intimation to this Court.

In a Sessions Case the persistent non appearance of the I.O. despite summons upon him directly affects the administration of criminal justice. Accordingly, the Court cannot consider the same lightly, particularly in view of the fact that the conduct of the I.O. has left a lot to be desired in several other cases as well.

There are multiple penal and coercive recourses available before the Court to secure the presence of the I.O. before the Court and enforce accountability. The Court can initiate proceedings u/s 221 of the B.N.S.S. since the I.O. is a public servant, who seems to intentionally appear before the Court in obedience of the summons. The Court may simultaneously issue warrant of arrest against him. Conspicuously, the police officer do not enjoy immunity from arrest for contemptuous non-compliance with the process of the Court. The Court may make a reference to the Hon'ble Court for contempt action against the I.O. or proceed under Section 10/12 of the Contempt of Courts Act, 1971 for obstructing the due course of judicial proceedings and lower the authority of the Court.

The Hon'ble Apex Court in a Special Bench decision in **Shiv Kumar v. Hukam Chand and Anr., (1999) 7 SCC 467** expounded that the I.O. is not above the authority of the Court.

The Court is also not oblivious of the facts that the case is pending for more than 8 years at a time when there is a judicial mandate to expeditiously

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dispose of all criminal cases, pending for more than 5 years, this Court is handicapped due to the lackadaisical approach of the investigating officer. Further, the trial court's obligation under Article 21 of the Indian Constitution is to ensure expeditious and fair trial and prevention of executive obstruction. It is a needless to mention herein that repeated non appearance of an investigating officer violates the right of an accused to speedy trial and the victim right to justice. The Hon'ble Calcutta High Court in a recent judgment in **Anil Sardar v. State of West Bengal and Ors., in CRM (DB) 2716/2023**, it was seen that the Hon'ble Court did not hesitate to suspend the Inspector in charge of a P.S. as well as the investigating officer of a particular case for dereliction of duty. Undoubtedly, repeatedly evading the summons of the Court also constitutes dereliction of duty by any witness, let alone by an investigating officer of a case.

As if that is not enough, there are several judicial pronouncements which permit the Sessions Case to even direct the Superintendent of Police or the Commissioner of Police to explain the absence of the I.O. and recommended Departmental proceeding against him. This is particularly justified, where the witness is particularly crucial for proving the prosecution case. The testimony of an investigating officer in a Sessions Case is definitely crucial.

Therefore, an I.O. who evades the deposition on multiple occasions exposes himself to arrest, penal prosecution, contempt action as well as departmental punishment. This Court wants to make it abundantly clear that it is not a helpless spectator and is empowered; rather duty bound, to act firmly in the pursuit of justice.

**Be that as it may, the I.O. is directed to positively appear before the Court on the date fixed, or else this Court would not hesitate to exercise one or more measures delineated above, to secure his appearance before the Court.**

Let a copy of this order be sent to the I.O. through O/C Nanoor P.S.

Let a copy of this order also be sent to the S.D.P.O. Rampurhat, who happens to be the Nodal Officer in respect of all criminal cases within the jurisdiction of this Court, for necessary action and intimation to the police stations within his jurisdiction.

Let a copy of this order also be sent to the Superintendent of Police, Birbhum for information.

Fix **10-02-2026** for evidence of CSW No. 10 and CSW No. 13.

The accused persons as before.

(Dictated & Corrected by me)

Sd/- S. Roy Chowdhury  
Additional Sessions Judge,  
Rampurhat, Birbhum  
J.O Code no. WB00885.

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