

Sessions Case No. 94 / 2022

CIS No. 94 / 2022

CNR No. WBBB05-000959-2022

Order No. 60

Dtd. 18.04.2026

Today is fixed for hearing of argument and production of MAT Exbt – I.

Sole accused, Sohel Mardi is produced through VC from Suri District Correctional Home.

The Ld. Defense Counsel is present.

The Ld. Panel PP is also present.

The MAT Exhibit – I has not been produced from Mallarpur PS.

An application is submitted on behalf of the prosecution in terms of Sec. 80 of the Indian Evidence Act for admitting the statements of the PW 1 and the PW 2, recorded U/s 164 of the Cr. PC, into evidence.

Another application is filed on behalf of the prosecution, for recall of the PW 1 & PW 2, to put questions to them regarding the MAT Exhibit - I.

Perused the same, as well as other materials on record.

Heard the Ld. Counsel for the prosecution as well as the Ld. Defense Counsel.

The application under Sec. 80 of the Indian Evidence Act is formal in nature and is allowed.

In fact, the Hon'ble Supreme Court as early as the case in **Madiganga V. The State of Odissa** in Criminal Appeal No. 398 / 1975 had observed that judicial statements recorded by Magistrates, should be admitted into evidence without calling for such Magistrates to depose before the Court. As such, the application U/s 80 of the Indian Evidence Act and statements of the PW 1 and the PW 2 recorded under Sec. 164 Cr. PC be marked Exbt. 14 & Exbt. 15 respectively.

So far as the application under Sec 311 of Cr. PC, for recall of the PW 1 and PW 2 are concerned, it is evident from the examination in chief that the offending weapon was shown to the PW 2 and she identified the same as the weapon that was used to kill the deceased. The testimony of the PW 1 reveals that she has seen the offending weapon being used by the accused person but her examination in chief does not reveal that such weapon was shown to the PW 1. Whatever be the case, the offending weapon was not specifically identified either by the PW 1 or by the PW 2, in Court. The same is a vital piece of evidence and it would cause tremendous prejudice to the prosecution, if it is denied the opportunity to recall the concerned witnesses and show them the offending weapon. Accordingly, the application under Sec. 311 of the Cr. PC is allowed.

To 08.05.2026 for further evidence on behalf of the prosecution.

To-date (08.05.2026) for production of the accused person.

To-date (08.05.2026) for production of the MAT Exbt. I.

Let a copy of this order be sent to the OC, Mallarpur PS for production of the concerned alamat.

D/c by me,

Sd/- S R Chowdhury

Addl. Sessions Judge

Rampurhat, Birbhum

J.O Code No. WB00885

Sd/- S R Chowdhury

Addl. Sessions Judge

Rampurhat, Birbhum

J.O Code No. WB00885

Memo. No. _____

Dated :

Copy forwarded to O/C, Mallarpur PS for information and necessary action.

Addl. Sessions Judge

Rampurhat, Birbhum

J.O Code No. WB00885