

**In the Court of the Additional District & Sessions Judge,
{Special Court (POCSO Act)}
Bishnupur, Dist.- Bankura**

Present

Shri Pradip Kumar Adhikary, WBJs,
J O Code (UID No.) - WB916,

CNR No.- WBBK 0500 0276 2025
Spl. Court (POCSO Act) Case No.- 05 of 2025
POCSO Trial No.- 16 of 2025
arising out of
Patrasayer PS Case No.- 42 of 2025 dated 01/03/2025

**Charge framed under sections 8 / 12 of the Protection of Children from Sexual
Offences Act (POCSO), 2012**

State

Ld. Spl. PP-in-Charge Shri Swarup Kumar Panja for the State
v.

Sk. Ramjan

Represented by Ld. Advocate Shri Prasanta Mondal

Order No.- 16
04/07/2026

Today is fixed for evidence of CSW Nos.- 01 to 03 on behalf of the prosecution.

The sole accused on Court bail is present by filing hazira.

The Support Person PLV Bikash Mondal is present with three witnesses i.e. CSW Nos.- 01 to 03 who happen to be parents and uncle of the victim.

The Ld. Spl. PP of the case is absent without taking any steps.

It appears that on 25/06/2025 charge was framed and thereafter, till date no a single witness has been examined.

When today three witnesses are present, the Spl. PP himself is absent.

Yesterday, i.e. on 03/07/2026 in another case under POCSO Act {**CNR No.- WBBK 0500 0081 2024 / Spl. Court (POCSO Act) Case No.- 03 of 2024**} also Ld. Spl. PP was found absent in spite of presence of two witnesses and over that matter the Court passed the following order :

Today is fixed for evidence on behalf of the prosecution.

The sole accused on Court bail is present by filing hazira.

The holding IO SI Mongal Mannan is present with two witnesses i.e. CSW Nos.- 01 and 03 who happen to be parents of the victim.

The Ld. Spl. PP of the case is absent without taking any steps.

Although today the Spl. PP Shri Swarup Kumar Panja conducted other cases as Spl. PP as well as Defence Counsel before this Court, but surprisingly, he remained absent in this case for the reason best known to him whereas the holding IO is present with two witnesses.

The holding IO has submitted that coming to the Court with witnesses he informed the Spl. PP about presence of witnesses.

In spite of that the Spl. PP has neither taken any steps nor filed any hazira of witnesses; rather kept him away from the Court when this case is called on repeatedly. The conduct of the Ld. Spl. PP seems to be not a *bona fide* one.

The Ld. Advocate on behalf of the accused has submitted that since the case has been compromised, the Ld. Spl. PP is not willing to proceed with the examination of witnesses.

Even if the matter is compromised, the witnesses cannot be sent back without examination. Moreover, if any witness does not support prosecution case, there is provision to cross-examine him/her by the prosecution as hostile witness. There are many instances where this Spl. PP let the witnesses go without any prayer to the Court for cross-examining them as hostile witnesses when they do not support the prosecution case.

As per Standard Operating Procedures (SoPs) and Training Module for the Fast Track Special Courts (FTSCc) Scheme prepared by the National Judicial Academy “The Special Court shall prohibit and punish false complaints or false information, except when made by the child victim, in which case no punishment shall be imposed on the child [POCSO Section 22].”

The Court, the Ld. Defence Counsel and the witnesses as well as the holding IO waited till 5-00 PM till the rising of the Court but unfortunately, the Ld. Spl. PP did not turn up to examine the witnesses.

In the above compelling circumstances the witnesses are discharged without examination.

On the last date i.e. on 02/07/2026 also the Ld. Spl. PP although was present but neither filed any hazira nor submitted hazira of any witness.

In *The Court on its Own Motion : In Re : Delayed Investigation in Criminal Cases : WPA (P) No.- 169 of 2021* the Hon’ble Court has been pleased to observe that

6. *It is needless to mention that it shall be the responsibility of the learned Public Prosecutors engaged in the matters to ensure that the trial is not delayed due to inaction of the prosecution or non-availability of the prosecution witnesses. It shall be the responsibility of the State and the learned Public Prosecutors of the respective districts to present the witnesses on the date fixed either physically or virtually subject to the permission of the learned Trial Court.*

7. *This order shall be circulated to all the District Judge, by the learned Registrar General for information and doing the needful.*

8. *All the learned Public Prosecutors of all the districts shall be intimated immediately by the respondent authorities.*

9. *Investigating Officers shall be be apprised of the order and must strictly adhered to this direction.*

Here in this case disobeying the solemn mandates of the Hon'ble Apex Court, the Spl. PP himself caused delay in trial deliberately in spite of presence of witnesses.

The Ld. Spl. PP has also showed disrespect to spirit of the solemn order of the Hon'ble Court passed on 12/12/2022 in **Chakina Khatun v. State of West Bengal : CRR No.- 854 of 2011** wherein relying upon **Zahira Habibulla H. Sheikh v. State of Gujarat** and **Shailendra Kumar v. State of Bihar** the Hon'ble Court has been pleased to direct that

*It is the duty of the Investigating Officer to protect the witnesses and ensure their presence before the Trial Court, for taking the trial to its logical conclusion. It will help both the victim and the accused person, to have **speedy justice which pertains to their right to life as well.***

Here not only the speedy trial, even normal trial has been hampered due to such inaction of the Ld. Spl. PP.

"Witnesses" as Bentham said: are the eyes and ears of justice.

Here in this case the Spl. PP has tried to restrain those eye and ears getting into the witness box of temple of justice. The Spl. PP has not only failed to discharge his statutory duty but also show irresponsibility with insensitively to the noble purpose of the enactment of the POSCO Act, witnesses, spirit of solemn mandates of the Hon'ble Court and last but not the least, to the very high position of the institution of prosecution – which is beyond tolerable.

In **Delhi Prosecutors Welfare Association v. Rajiv Mehrishi : CONT. CAS(C) 224/2016 & CM APPL. 15444/2017, CM APPL. 34709/2019, CM APPL. 53062/2019** it has been held that

The post of 'Public Prosecutor' is an integral part of criminal court system. The Hon'ble Supreme Court has on numerous occasions highlighted the import of the post,¹ specifically highlighting its uniqueness vis-à-vis a counsel for a complainant or another ordinary party to a controversy. A Public Prosecutor is positioned as a representative of the sovereign, whose interest is not to secure a conviction but rather to facilitate the administration of justice, and in doing so must act in a fair and impartial manner, within the framework of the law and independent of undue influence by investigating agencies and the Executive.² Given this distinct role played by Public Prosecutors, it becomes imperative that the appointees are adequately equipped to shoulder the weighty responsibilities the post carries.

In **Mahabir v. State of Haryana : Criminal Appeal Nos.- 5560 – 5561 of 2024 : 2025 INSC 120** : the Hon'ble Supreme Court has further pleased to observe that

The Public Prosecutor must be a person of high merit, fair and objective, because upon him depends to a large extent the administration of criminal justice. The office of the Public Prosecutor is a public office and the incumbent has to discharge statutory duties. The person appointed as Public Prosecutor must, therefore, be one who is not only able and efficient, but also enjoys a reputation and prestige which satisfy his appointment as a Public Prosecutor. The duty of the prosecutor is to assist the Court in reaching a proper conclusion in regard to the case which is brought before it for trial.

Very recently over profession misconduct of a Spl. PP, although in different context, in **Pratap Digal v. State of West Bengal : CRA (DB) No.- 25 of 2025** the Hon'ble Court has been pleased to direct the Chairman of the Bar Council of West Bengal to immediately consider initiating disciplinary proceedings against him for his malice and vindictiveness as well as for violation of professional ethics.

In India's legal system, a Public Prosecutor is an officer of the Court. But here in this case the Spl. PP has failed to discharge his duties and obligations as an officer of the Court.

The job assigned to the Public Prosecutor for POCSO cases is a very onerous one which must be carried out with great care and sensitivity. {Alarming Rise in the Number of Reported Child Rape Incidents: In re : (2020) 7 SCC 130}

Access to justice is a basic principle of the rule law. The National Legal Services Authority is continuously trying to make justice at the doorstep through various instructions, guidelines, schemes etc.. But here the litigants i.e. witnesses and accused came at the doorstep of the Court, but they are compelled to return home empty hands and thereby, they lost their entire day. They suffered financially as well as mentally due to inaction on the part the Spl. PP.

The unfortunate conduct of the Spl. PP demonstrated in a case under the POCSO Act where the Superintendent of Police, Bankura has already reprimanded Officer-in-Charge and Circle Inspector of Joypur PS for procedural lapses as highlighted in the order dated 04/06/2026, constrains the Court to impose cost of Rs. 10,000/- upon the prosecution.

The District Magistrate, Bankura is directed to deposit the cost amount to the fund of SDLSC, Bishnupur by the next date.

On deposition of cost amount, the Secretary, SDLSC, Bishnupur is directed to pay 50% of the cost amount to the CSW Nos.- 01 and 03 i.e. parents of the victim.

Since the Spl. PP is found absent without taking any steps in spite of presence of three witnesses, they are discharged without examination.

To date i.e. 06/07/2026 for evidence on behalf of the prosecution.

Typed by me

Additional District & Sessions Judge,
{Special Court (POCSO Act)}
Bishnupur, Dist.- Bankura

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