

**POCSO Case No.216/2015**

**Order No.20, dt. 07.06.2022 :-**

All the three accused on court bail remained absent in court by filing a petition u/s-317 Cr.P.C and date appears to be fixed for evidence of the prosecution and for the prosecution witness Madhusudan Roy is present and he is examined as P.W.3 and during his examination in chief the seizure list is marked X for identification and the signature of this witness is marked as exhibit-2.

At this stage Ld defence counsel files a petition praying for deferring the cross-examination of P.W.3 till the cross-examination of the victim girl is completed and it is submitted by the Ld defence counsel that if the cross-examination of the P.W.3 is not deferred his defence will be disclosed and as such Ld defence counsel declined to go on for the cross-examination of P.W.3.

Ld P.P raised strong objection in this regard and submitted that under no circumstances cross-examination of P.W.3 is liable to be deferred and it is further contended that in the meantime the evidence of the defacto complainant and the doctor has already been completed who have been examined in this case as P.W.1 and P.W.2 respectively and therefore this petition deserves rejection.

Heard both sides at length over their respective submission.

Considered the chequered history of the case and also considered the relevant provision of the Code of criminal procedure as envisaged u/s-231(2) Cr.P.C where it has been specifically mandated that after prosecution witnesses are examined, cross-examination by the accused and reexamination if any shall follow immediately in the order as stated u/s-138 of the Indian Evidence Act and there is no right to reserve cross-examination and ordinarily examination and cross-examination is a continuous process. Sub section-2 of section-231 vests the judge with the discretion to permit for sufficient reason in a fit case to allow the cross-examination of any witness to be deferred until any other witness or witnesses are examined and this discretion entirely lies with the court in a fit case where the facts and circumstances so demands.

After due consideration of the facts and circumstances I do not think that any such circumstance so exists to allow the prayer and accordingly prayer stands rejected. The defence is asked to cross-examine the witness right now.

Accordingly P.W.3 is cross-examined in full by the defence counsel and discharged.

At this stage Ld P.P in charge files a petition praying for issuance of summons upon V.G with further prayer to pass necessary order upon the O.C Haldibari P.S to produce the victim before this court for her evidence on the ground stated in the petition.

Copy is not served. Perused. Heard. Considered. Prayer is allowed.

To 28.07.2022 for evidence of victim girl.

Let a copy of this order along with summons upon V.G be sent to the O.C Haldibari P.S, Cooch Behar with a direction to causing service of summons and produce V.G on the date fixed without fail.

Dictated & Corrected,

Sd/-S.S.Das  
Judge POCSO Court-Cum-  
Addl. Sess. Judge, 2nd Court  
Cooch Behar

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