

S.T. NO.03(08) OF 2024
SESSIONS CASE NO.33 OF 2024
(CNR - WBCS01-000483-2024)
Present: Sri Soumendra Nath Das
Chief Judge, City Sessions Court, Calcutta
J.O. CODE NO.WB01132

Order No.06 dated 02.01.2025

Today is fixed for production of the accused person and further examination in chief of P.W.2 namely Arnab Biswas.

The sole Accused person is produced before this Court from the J.C.

Ld. Counsel for the accused person and the Ld. P. Ps.-in-charge are present.

P.W.2 namely **Arnab Biswas** is present before this Court. In presence of both sides the record is taken up for recording evidence. He is further examined in chief **in full** and then he is cross-examined by the Ld. Counsel for the accused person **in full** and thereafter he is **discharged**.

The SD card wherein on the front portion it is written “Scandisk Ultra 16GB” and on the reverse side of the SD card it is written “BL1906150851G made in China” is proved and marked as **Material Exhibit-P-I/P.W.2**.

As per Gazette Notification dated 15.07.2022, the certified true copy of the deposition of P.W-2 dated 02.01.2025 is handed over to both sides i.e. the prosecution as well as the Ld. Defence Counsel after obtaining endorsement in the relevant register.

At this juncture, a petition under section 311 of the Cr. P.C. equivalent to section 348 of the B.N.S.S., 2023 has been filed on behalf of the Prosecution stating that inadvertently the name of the photographer i.e. Biren Roy Chowdhury, Constable no.1261, photographer Lalbazar DD, Photography Section, who took the photographs of the place of the occurrence has not been mentioned in the charge sheet as a charge sheeted witness.

It is further stated in the said petition that the name of the expert of the State Forensic Science Laboratory, 37/1/2 Belgachia Road, Kolkata-700037 was also not cited as a charge sheeted witness and these two witnesses are very much vital to establish the prosecution case as the best available evidences will be withheld if they are not able to adduce their evidence.

Ld. P.P. further submitted that due to such unintentional mistake, prosecution is unable to produce the materials and vital witnesses before this Court as witnesses and therefore prays for allowing the above mentioned witnesses to adduce evidence before this Court on behalf of the Prosecution to prevent miscarriage of justice and to establish the truth and to prevent abuse of the process of law and also to obtain proper proof of such facts before this Court.

Ld. P.P. further submits that, if this petition is not allowed, then the prosecution case will get severely prejudiced.

Ld. Counsel for the accused person raises objection and submits that Prosecution has not supplied any list/chart of the relied upon and non relied upon documents to the accused person as per guidelines of the Hon'ble Supreme Court of India and at this stage this type of application has been filed by the prosecution u/s 311 of Cr. P.C. only to drag the matter for a long time and delay the trial of this case and considering the fact that the accused person is in custody.

Ld. Counsel for the accused person further submits that no specific name of the expert has been mentioned in the petition filed today by the Prosecution and no report has been supplied to the defense and all the copies are required to be submitted before this Court and also to be supplied to the accused person before commencement of the trial and so the Ld. Counsel prays for rejection of the petition filed today under section 311 of the Cr. P.C. equivalent to section 348 of the B.N.S.S., 2023 on behalf of the Prosecution as the same is a gross abuse of the process of the Court.

Heard both sides.

On perusal of the petition as well as the case record it transpires that the name of the photographer i.e. Biren Roy Chowdhury, Constable no.1261, photographer Lalbazar DD, Photography Section and the name of the expert of the State Forensic Science Laboratory, 37/1/2 Belgachia Road, Kolkata-700037 have not been mentioned in the charge sheet as witnesses and it is submitted that Biren Roy Chowdhury is the photographer of the place of occurrence of this case and expert opinion is also vital for the ends of fair trial of this case and so the evidence of photographer i.e. Biren Roy Chowdhury and the evidence of the expert of the State Forensic Science Laboratory is very much vital for proper adjudication of the prosecution case and for arriving at a just and proper decision in this case and therefore is a fit case for invoking the provisions of section 311 Cr.P.C corresponding to section 348 of the B.N.S.S., 2023 .

In view of the above circumstances, the petition u/s 311 of Cr. P.C. equivalent to section 348 of the B.N.S.S., 2023 filed today on behalf of the prosecution is considered and allowed for the ends of fair trial of this case.

Accordingly, prosecution is directed to take necessary steps to ensure attendance of the witnesses namely Biren Roy Chowdhury, the photographer of the Place of occurrence and also the expert of the State Forensic Science Laboratory for their evidence on the dates fixed positively.

On submissions of both sides, fix **10.02.2025** for production of the accused person and evidence of the photographer, Biren Roy Chowdhury.

Issue summons at once.

Requisites at once.

The Accused person is remanded to J.C. till 10.02.2025.

D/C by me.

Sd./-
Chief Judge
City Sessions Court, Calcutta

Chief Judge
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