

GR(S)/1063/2022

CNR NO. WBCS02-135985-2022

Arising out of Hare Street PS Case No. 260 dated 13.09.2022

Present :

Koustuv Mukhopadhyay

Chief Judicial Magistrate, Calcutta

J.O Code – WB01059

Order dated : 02.01.2025

The record is taken up for hearing petition for recall filed by the prosecution as per Section 311 of Cr. P. C.

Accused no. 5 is produced from PC Home and the other 06 accused persons are on C.B and they are present by taking steps.

The Ld. PP submitted that on last occasion cross-examination of PW-30, Arijit Maitra got concluded and he wants to recall this witness.

Ld. PP submits that during examination-in-chief of PW-30 this witness stated that certain documents were seized by the IO from his branch by virtue of a seizure list and this witness mentioned what was seized in particular but due to inadvertence on the part of prosecution, signature of PW-30 on those seized documents could not be marked exhibit.

Ld. PP submits that the signature of PW-30 in those seized documents needs to be marked exhibit which is over looked for which he has filed this recall petition.

He further submits that those signatures are to be exhibited and no new fact will be brought in the form of recall.

He further submitted that the recall petition is made for the ends of justice and same is not made to fill up any kind of lacuna in the prosecution case.

The recall petition is strongly opposed from the side of the Ld. Advocates appearing for the accused persons.

They submitted jointly that PW-30 has got his signature in the seizure list exhibited and now it is up to the IO to get those documents marked exhibit.

They further submitted that PW-30 is not the maker any of the documents and hence no question arises of getting those documents exhibited through PW-30 by recalling him as the prosecution will get opportunity to get those documents exhibited through the evidence of IO, who has allegedly seized those documents.

Ld. PP admits the fact that none of those seized documents are prepared by this witness (PW-30) but at the same time he insist on recalling this witness.

This is the common practice that seized documents are exhibited through the evidence of IO or any other person who has caused the seizure and not through the evidence of seizure witness.

In the instant case, PW-30 has already stated in his evidence that he has no knowledge about the fact of the case and the documents seized were not prepared by him as he was a mere signatory to the seizure list as a witness.

It further appears that this witness has stated in his evidence about the incident of seizure and he identified his signature in the seizure list which was subsequently marked exhibit.

After considering the entire aspect, I hold that this witness has performed his role as a seizure witness and he discharged his responsibility after identifying his signature in the seizure list.

Now, it is indeed the duty of the IO to get those seized documents exhibited during his examination-in-chief.

Accordingly, I find no substance in the prayer for recall and I also believe that recalling the PW-30 will not make any sense.

I also hold that the prosecution will not get prejudice even if the prayer for recalling PW-30 is rejected.

Accordingly, the prayer for recall is hereby rejected.

Accused no. 5 be sent back to PC Home with a direction to be produced again on 15.01.2025.

Office to issue summons to next charge sheeted witness through the IO of this case.

To -15.01.2025 for evidence/production/appearance.

CJM