



**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE,1st COURT
DAKSHIN DINAJPUR AT
BALURGHAT**

PRESENT : Santosh Kumar Pathak
Addl.District & Sessions Judge-1
Dakshin Dinajpur at Balurghat
JO Code : WB00-830.

SESSIONS CASE NO. 28 OF 2020

Sessions Trial No. 48 of 2023
Computer Regn.No. 29 of 2020
CNR: WBDD01-000339-2020

Details of Crime :- **BALURGHAT P.S.CASE NO. 488 OF 2016** DT. 10.08.2016 UNDER
SEC. 376(2)(n)/506 of the INDIAN PENAL CODE.

THE STATE OF WEST BENGAL.....versus.....	ACCUSED AMITESH KUMAR PASWAN S/O.Late Paran Paswan Vill. & P.S. Salimpur, Dist. Patna Bihar.
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Advocates on Record : **Mr.Nirmal Saha.....Ld.Advocate for accused**
Mr.Abhijit Kr.Saha.....Ld.Addl. Public prosecutor

ORDER NO. 32
26. 03. 2025

1. Sole Charge Sheeted accused on court bail is represented by his Ld.Advocate by filing one petition under sec.317 Cr. P.C. Today is fixed for examination of further prosecution witnesses. Ld.Addl. Public prosecutor files hazira of one witness namely Farukh Sekh, who is examined in chief, cross examined in full and discharged. No other witness turns up today.
2. One report is received from Haridas Adhikary, A.S.I of Balurghat P.S. wherein he has contended that the defacto complainant/C.S.W.No.1 Gita Ekka has not been residing in the address noted in the charge sheet and his son Dilip Ekka



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revealed that said Gita Ekka is now residing outside the state of West Bengal for her livelihood. Accordingly, let the trial be proceeded in absence of the defacto complainant, with a further direction upon the Investigating Agency to compel the production of C.S.W-1/complainant, positively before completion of trial.

3. Perusal of the case record further transpires that Non-Bailable Warrant of Arrest was issued against the C.S.W.No.4 Dilip Ekka, who is the son of the defacto complainant/victim/C.S.W-1 on 23. 12. 2024 vide order no.31 of this court. It is very much surprising that the concerned A.S.I Haridas Adhikary of Balurghat P.S.in his report dt.04.01.2025 disclosed that son of the C.S.W.No.1 revealed that his mother has not been residing in his address which means the said officer got in touch with C.S.W.No.4 Dilip Ekka against whom N.B.W of Arrest is still pending but the I/C, Balurghat P.S. remained tacit even after non-execution of concerned Warrant of Arrest that too after having a full fledged discussion with the warrantee regarding address of his mother.

4. Further perusal of the materials available on record shows that this is a case for alleged commission of repeated forcible sexual intercourse by the accused upon his domestic



help on and from 14.07.2016 till the date of lodging complaint, consequent upon which, on conclusion of investigation police submitted charge sheet against the accused on 30.06.2017, since when the present accused has been passing her days with such a black scar upon her face and still facing the trial with an intent that justice must be delivered by unearthing the truth. Unfortunately, since the date of framing charge, delinquency of the Investigating Agency is frustrating the ends of justice by way of misusing the process of court. Sometimes, they states that the materials witnesses are not residing in the addresses noted in the charge sheet, sometimes they are placing Non-Exeuction reports of warrants of arrests to compel appearances of the witnesses.

5. Ld.Advocate for the accused has submitted that the instant case is a false one and maliciously instituted with ulterior motive for wreaking vengeance out of private or personal grudge being fuelled by the investigating agency. As a result of which, prosecution is not in a position to cause appearance of the witnesses before this court, being afraid of unravelling the truthfulness of the investigation and complaint. There is no denying the fact that the implications of not producing witnesses can lead to adverse inference which may ultimately result in dismissal of charges against the accused



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inasmuch as absence of witnesses is a fatal flaw of prosecution case on the ground that in criminal law the burden of proof is on the prosecution.

6. Under the above noted facts and circumstances and keeping in mind the evidence adduced as of now, Inspector in Charge of Balurghat P.S. is seriously directed to cause execution of the Warrants of Arrests issued against the witnesses of this case, cause service of summons issued upon the fresh Prosecution Witnesses and in case of demise or shifting of addresses produce valid documents of the same.

Issue Fresh Summons of C.S.W.No. 6, 7,10, 11, 13,15,18 & 19.

Fix 23.04.2025 for C.S.W. No. 6,7, 10 & 11 &

24. 04. 2025 for C.S.W.No.13, 15, 18 & 19.

7. Let a copy of this order along with the fresh summons to witnesses be sent to I/C Balurghat P.S. for information and compliance. Let another copy of this order be sent to, S.P, Dakshin Dinajpur for his information.

Dict.& Corr by

A.D.& S.J-1

**Addl. District & Sessions Judge-1
Dakshin Dinajpur at Balurghat**