

JO Code WB00836, CNR-WBEM01002401-2013

Present: Smt. Anindita Ganguli, Ld. ASJ, F.T.C-II, Tamluk
S.T 2 (2) of 2013

Order No.107

Dated 04.03.22.

Today is fixed for further evidence and E/R of W/W/A against S.I Anadbandhu Pati.

Accused persons (07) on C/B and present. Other accused persons on C/B and represented u/Sec.317 of Cr.P.C.

Ld. Sr. Public Prosecutor as well as Ld. Defence Advocate are present.

Ld. Sr. P.P submits that in spite of his best efforts the IO could not be produced till date and prays for necessary order in securing his attendance.

Heard. Perused the case record. Considered.

The record reveals that the trial started as back as on 13.02.2013 and presently the same is at a halt due to non appearance of the IO S.I Anadbandhu Pati.

In the attended circumstances, accordingly B.C.-I is directed to issue fresh B/W/W/A of Rs.2000/- against S.I Anadbandhu Pati.

I/C, Tamluk P.S. is hereby directed to execute the warrant and report compliance by the date fixed.

B.C.-I is directed to comply the order at once.

At this stage, Ld. Defence Counsel draws my attention to the fact that one application u/Sec.311 of Cr.P.C. is pending with the record since 02.04.2018 and craves leave to move the same.

Ld. Sr. P.P submits nothing to the contrary.

Having scrutinized the case record, it transpires that on 02.04.2018 the accused persons preferred an application u/Sec.311 of Cr.P.C. praying for examination of P.W.1, P.W.2 and P.W.3 on re-call. The then Ld. Predecessor in office observed that the petition will be considered after recording of evidence of the doctors. The record speaks that the doctor has been examined on 29.06.2017 and 05.10.2018.

Contd....P/2

Thus, in view of the order No.85 dated 02.04.2018 I find no impediment to consider the petition this day.

The application u/Sec.311 of Cr.P.C. filed by the defence is taken up for hearing.

Ld. Defence Advocate moves the application and submits that questions to be put to the P.W.1, P.W.2 and P.W.3 are specifically stated in the application and if the same is not allowed the defence case will be highly prejudiced.

Ld. Sr. P.P submits that all the prosecution witnesses has been exhaustively cross-examined and accordingly prays for necessary order.

Heard. Perused the application as well as the evidence on record. Considered.

P.W.1 Indrajit Doloi is the defacto complainant of this case. He appeared as a witness on 01.07.2013 and his testimony was concluded on 31.07.2013. The defence proposes to put ten (10) questions to this witness relating to the structure and situation of the house of Niranjani Doloi, their positions during the alleged attack and question relating to number of bombs hurled and its consequential effect on the house of the victim thereto. The defence also intends to cross-examine the P.W.2 Ranjit Doloi who deposed on 26.08.2013 and 27.09.2013 as to the number of miscreants involved and how many numbers of bombs hit on the different parts of the house of Niranjani and its effect. The defence also proposes to cross-examine the P.W.3 who was examined before this Court on 27.08.2013 and 27.09.2013 relating to his situation during the alleged attack and the effect of bombardment to the house of Niranjani Doloi.

On careful reading of the testimony of these three witnesses taken as a whole, it transpires that they faced exhaustive cross-examination and disclosed entire facts within their knowledge and were cross-examined on every material aspect. The requirement of cross-examination of these three

witnesses after a lapse of 08 years only to put an effort to curve out certain facts which do not fall within the category of clarification or revelation of any material aspect under consideration as well as which will not add any value in the dispensation of justice is not warranted. Thus the application is liable to be rejected.

Hence, it is,

ORDERED

that the application dated 02.04.2018 u/Sec. 311 of Cr.P.C. filed by the defence is rejected on contest without cost.

Inform Ld. Sr. P.P and Ld. Defence Advocate.

B.C.-I to comply.

To 31.03.2022 for evidence of IO.

Accused persons as before.

Dic. & corr. by me.

Additional Sessions Judge,
Fast Track, 2nd Court, Tamluk.

Additional Sessions Judge,
Fast Track, 2nd Court, Tamluk.