

S.T 26(09)2025
S.C 131/2025
CNR no.WBHG01-002269-2025
J.O Code no.WB00877

Order no.17 dated 13.04.2026

All eight accused persons are not produced from J/C from V.C.

Today is fixed for hearing of the application dated 07.04.2026 filed at the instance of the accused persons u/s 254(3) of BNSS.

Written objection filed on behalf of the prosecution.

Heard the prosecution and the learned Defence Counsel.

Perused the application and written objection thereto and considered.

It is submitted by the learned Defence Counsel that in the instance case CSW-1 and CSW-2 were examined as PW-1 and PW-2 and both the witnesses were the Nodal Officers of Wishnet Pvt. Ltd and Allaiance Broad Band Services Pvt. Ltd respectively. It is further submitted that on 23.02.2026 supplementary chargesheet was filed after certain copy and on perusal of the supplementary chargesheet, it was found that the prosecution intruded some new facts bearing connection of PW-1 and PW-2 in the said case and also mentioned 10 new witnesses to be examined on behalf of the prosecution. It is also submitted that supplementary chargesheet was filed with definite motive to fill up the latches and lacuna of the witnesses (PW-1 and PW-2) came to light during their cross-examination.

Learned Defence Counsel apprehends that there is every possibility to submit another supplementary chargesheet by the prosecution to fill up the latches and lacuna of the witnesses to be examined specially the Nodal Officers if they are cross-examined one after another in usual manner. It is further submitted that for proper adjudication of the instant case and to deliver fair justice to the litigant, the defence may be permitted to cross-examine PW-3, CSW-54, CSW-57, CSW-58, CSW-65 and CSW-66 who are the Nodal Officers, to cross-examine after completion of their examination-in-chief, otherwise the defence will be highly prejudiced.

The prosecution has strongly challenged the averments made in the application and submitted before the court that the instant application is not maintainable in law as it is made in violation of the provision of section 254 BNSS and also in violation of the directives given by the Hon'ble Supreme Court in the case of State of Kerala Vs. Rasheed which is landmark judgement applicable in all criminal trials with respect to the provision of section 254(3) of BNSS. It is also submitted that the Hon'ble High Court in the case of Sisir Debnath Vs State of West Bengal and another categorically stated that mere relationship between the witnesses is no ground to defer their cross-examination during trial unless exceptional circumstances justifying such procedure is made out. It is further submitted that supplementary chargesheet is the part of further investigation of the instant case and the

issue of filling the lacuna and latches, as alleged, is out and out false, manufactured and baseless. It is also pointed out that the defence has to come before the court with clean hands for approaching such prayer, and in the instant case, the defence did not file any such application u/s 254(3) of BNSS at the beginning of the trial when the prosecution submitted list of witnesses to be examined by the prosecution. Now, the defence has come up with the instant application just to delay the process of adjudication and trial for getting illegal benefit. The learned P.P has prayed for rejection of the instant application.

No doubt the provision of section 254(3) of BNSS has very limited scope of application. Basic criteria for allowing such application is that the defence has to show exceptional circumstances justifying the prayer. In the instant case, it is alleged by the defence that after cross-examination of PW-1 and PW-2, who were the Nodal Officers, the prosecution has submitted supplementary chargesheet, wherein some new facts, evidence and documents were introduced along with list of 10 more witnesses to be examined just to fill up latches and lacuna on the part of PW-1 and PW-2 which was brought to light during their cross-examination. Learned Defence Counsel apprehends that there is every possibility on the part of the prosecution to incorporate new facts and evidence by filing supplementary chargesheet in future to fill up latches and lacuna of the witnesses (Nodal Officers) yet to be examined if they are cross-examined in usual procedure after completion of their examination-in-chief. Learned Public Prosecutor denied the allegation of filling up lacuna and latches through supplementary chargesheet. So, at this stage, the prosecution should not have any objection if the defence is allowed to cross-examine CSW-54, CSW-57, CSW-58, CSW-65 and CSW-66 after completion of their examination-in-chief. It is not disputed that the court has discretionary power to permit cross-examination of any witness to be deferred until any other witness or witnesses have been examined to ensure proper and fair justice. In the instant case, considering the averment made by the parties and also to ensure fair and proper justice to the parties, this court finds it proper to allow the application dated 07.04.2026.

Hence, it is

ORDERED

that the application u/s 254(3) of BNSS dated 07.04.2026 filed at the instance of the accused persons stands **allowed** on contest.

Defence is permitted to cross-examine PW-3, CSW-54, CSW-57, CSW-58, CSW-65 and CSW-66 after completion of their examination-in-chief.

Fix 30.04.2026 for examination-in-chief of CSW-54 and CSW-57.

Prosecution to take necessary steps accordingly.

Dictated & corrected by me

Additional Sessions Judge,
1st Court, Chinsurah

Additional Sessions Judge,
1st Court, Chinsurah.

