

S.T 30(05)2023
S.C 207/2022
CNR no.WBHG01-004745-2022

Order no.50 dated 29.03.2025

One petition from the witness/P.W-11 was filed in the meantime through the Hooghly District Correctional Home praying that he should be produced in V.C mode considering his life threats by the accused side.

On asking now in the open court, I am told by the learned Special P.P and the I.O of the case that he shall be produced physically today.

Witness Totan Biswas/P.W-11 is produced from J/C in connection with another case.

Today is fixed for evidence of Totan Biswas/P.W-11 vide order no.49 dated 27.03.2025.

Learned Special P.P appointed in this case and the learned Advocates of the accused persons are present before me. The accused persons are produced through V.C mode from three different District Correctional Homes.

Before this learned Court to proceed with the recording the cross-examination of P.W-11/Totan Biswas, one petition has been filed on behalf of the accused side stating the fact that they have moved before the Hon'ble High Court at Calcutta by filing Criminal revision being CRR no.1457 of 2025, challenging the order no.48 dated 24.03.2025 rejecting the petition u/s 231(2) of the Cr.P.C. filed by the accused side.

Learned Advocates for all the accused persons commonly prayed that a reasonable time should be granted to bring appropriate order from the Hon'ble High Court at Calcutta.

The learned Special P.P of this case strenuously resisted such petition filed on behalf of the accused side. It is submitted that after the judgement passed in M/s Saj Industries Pvt. Ltd & others Vs. Sk Firdos ur Rahaman in CRR no.1652 of 2013 dated 12.03.2024 by the Hon'ble High Court at Calcutta, this learned Court under no circumstances can adjourn the evidence (cross-examination) of the witness/P.W-11 Totan Biswas present in the courtroom. To fortify his submission, he drew my attention to the relevant page of the solemn judgement of the Hon'ble High Court.

I have patiently heard learned Special P.P and the learned Advocates for the accused persons in the above matter and also in presence of the witness/P.W-11 and the accused persons produced through V.C mode. The accused persons preferred Criminal revision challenging the order no.48 dated 24.03.2025 whereby deferral of CSW-11/Totan Biswas and CSW-4 was *refused* by this learned Court. The present position before me is peculiar in its nature. Fact remains that against the order dated 24.03.2025, they have preferred Criminal revision before the Hon'ble High Court and certainly they have right to get their cause redressed from the Hon'ble Court. In the event, this learned Court directs the accused side to cross-examine the present P.W-11/Totan Biswas, the very purpose of filing the Criminal revision will get frustrated. Even a single line cross-examination will render the aforesaid criminal revision objectiveless. In an Advocate letter dated 28.03.2025, they have intimated this learned Court that they have filed the aforesaid Criminal revision before the Hon'ble High Court on 28.03.2025. This is not a case situation where either the prosecution or the defence have attempted to drag and derail the smooth trial of the case.

While writing this order I gave my honest endeavour to go through the judgement cited by the prosecution. I take this honest courage to conclude the discussion as hereunder.

In my humble consideration, one opportunity should be given to the accused side to bring appropriate order or stay order from the Hon'ble High Court giving reasonable time period. I have experienced that both the parties are sincere enough to proceed with the trial smoothly. In the given peculiar situation, the adjournment as sought for by the accused side should be granted by giving reasonable time period and in doing so, I have given concerned so that there shall not be any miscarriage of justice to the accused side in seeking such adjournment before me. Fact remains that the accused persons are suffering judicial custody for a long period of time.

I do hereby direct the accused side to bring appropriate order or stay order from the Hon'ble High Court at Calcutta within a reasonable time fixing 21.04.2025 without fail.

The matter under agitation is hereby disposed of. Till that date evidence and production of accused persons are deferred. This order is shown to the parties in open court.

Dictated & corrected by me

Additional Sessions Judge,
1st Court, Chinsurah
J.O Code no.WB00753

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