

Order No. 55
Dt. 10.7.25.

Today is fixed for further cross examination of P.W.10.

Sole accused person on court bail namely Goutam Nayek is present before this court and has filed hazira.

The witness P.W.10 is found present.

Both sides are present before this court.

P.W.10 is further cross examined today by the ld defence counsel but the cross examination is paused at this stage as one petition is filed by the ld defence counsel which is now taken up for hearing and order.

Ld defence counsel while moving the said petition submitted that the witness cross examined today i.e. P.W.10 has answered to his question as to whether he has mentioned in his CD as to whether he had cordoned off the P.O. after his arrival at the P.O. to which the witness had answered that he had cordoned off the P.O. but the same is not reflected in his CD. Ld defence counsel submitted that as the said witness was the I.O. of this case, he cannot say anything from his memory which is not reflected in his CD, and thus the said answer of the witness be expunged from the record.

Ld Advocate for the State submitted that the witness had already mentioned in his evidence-in-chief that he had taken two photographs of the P.O. which were subsequently identified by him and marked exhibits with objection, the said photographs are now exhibited documents which show that the P.O. was cordoned off and thus the answer of the I.O. to the above question cannot be stated to have been made from his memory. He also submitted that the matter of expunging the said answer needs to be dismissed as this court can only record what the witness states on dock on oath and the same would only be considered at the time of argument of this case. He prayed for dismissal of the said petition.

Heard both the sides. Perused the petition and record. Considered.

The submission of the ld defence counsel is without merits as this court is duty bound to record the answer of the witness to the question put forward by the ld defence counsel, if it pertains to the said query. As the witness clearly stated that he had cordoned off the P.O. but the same is not reflected in his CD, he has answered the question posed to him by the ld defence counsel and thus this court has correctly recorded the same. So far as the evidentiary value of the said answer is concerned, it is be looked after at the time of hearing of the arguments of this case. As such, this court does not find any reason to expunge the said answer from the evidence recorded of this witness. Thus, the petition filed by the defence is considered and dismissed and thus disposed off.

Dictated & Corrected by,

Addl. Sess. Judge, 2nd Court
Serampore

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Serampore

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Later :
10.7.25

After passing of the above order, Id defence counsel has filed an adjournment petition submitting therein that he intends to move the Hon'ble Calcutta High Court against the above expunging dismissal order as he is aggrieved by the same and thus the further cross examination of this witness be adjourned on this day.

Ld Advocate for the State raised strong objection.

Heard both the sides. Perused the adjournment petition and record. Considered.

It appears from the instant record that the cross examination of this witness was partly done on 09.12.2024 and 27.02.25 and that the adjournment prayer of the Id. defence counsel was allowed on the last date and the matter was fixed for further cross examination of this witness as last chance on the third occasion on this day. It is apparent that such piecemeal cross examination of the prosecution witness is contributing to the languishment of the trial of this case which is going on since 15.9.2016. However, this court is inclined to allow the adjournment prayer today in the interests of justice to enable the accused person to ventilate his grievance within a reasonable period of time before the Hon'ble Calcutta High Court. However, this adjournment is granted with the condition that the accused person must bring any order from the Hon'ble Calcutta High Court in this matter on or by the next date i.d. complete the cross examination of this witness without fail on the next date. The further cross examination of this witness is accordingly deferred and the accused person is given special last chance to complete the cross examination on the next date.

The witness is directed to appear on the next date.

To 12.8.2025 for evidence/furnishing of appropriate order by the accused person from Hon'ble Calcutta High Court.

Dictated & Corrected by,

Sd/-

**Addl. Sess. Judge, 2nd Court
Serampore**

Sd/-

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Serampore**