

**Sessions Trial No.72/2016**

Order dt. 19.12.2018

Today is fixed for appearance of the accused persons namely 1) Md Nosad, 2) Md Adil @ Nanki, 3) Asgar Ali @ Chand @ Chanua, 4) Md Kaum, 5) Tipu Ansari, 6) Abhijit Pal @ Chottu @ Patol (in J.C.) & 7) Prabhat Das @ Alu (in J.C.) and evidence. All the five accused persons on bail are present before the court by filing haziras. Accused person namely Abhijit Pal @ Chottu @ Patol is produced from Howrah District Correctional Home & the accused Prabhat Das @ Alu is produced from Presidency Correctional Home. They are remanded to J.C. till 21.12.2018.

Ld PP in charge files a petition with the annexure of the application submitted by one SI Madhab Chakraborty (without mentioning the PS where he is now attached with) with the prayer for allow some time to the IO to collect the FSL report and to fix another schedule for evidence.

Ld PP in charge files hazira of two witnesses.

Ld PP in charge prays for taking up the petition submitted by him as well as the application submitted by SI Madhab Chakraborty for hearing.

Ld defence counsel raises no objection for hearing such petitions.

Thus, those two petitioners are taken up for hearing.

Ld PP in charge submits that the IO of this case sent the seized cartridge to the FSL, Kolkata for expert opinion on 04.08.15 but on the date of submission of CS i.e. on 17.08.15 the I.O. did not receive the FSL report. He prays for time for such FSL report and prays for adjournment of the trial. He submits that SI Madhab Chakraborty has submitted a similar prayer before this court.

Ld defence counsels submit that the petitions from the prosecution side are misconceived because it was the duty of the I.O. to collect expert's report prior to submission of CS and the prosecution has no scope to drag the disposal of this case on the pretext of collecting the expert's report at this belated stage. They submit that no petition has come from the present O.C. of the concerned P.S. They points out that SI Madhab Chakraborty is not certain whether actually such report was collected during investigation stage or not and he is not certain about the custody of such expert's report. They pray for rejecting both the petitions.

It appears to me that SI Madhab Chakraborty has filed one application before the "A.D.J. 4<sup>th</sup> Court Howrah". It appears to me that the said SI did not mention his capacity to file such petition or he did not mention in which PS he is now employed.

It seems to me that SI Madhab Chakraborty is a novice and he does not know the nomenclature of the designation of the court while dealing with criminal matters.

The petition submitted by SI Madhab Chakraborty is misconceive because he has failed to make himself certain about the expert's report prior to filing such petition since he has used the terms "may be".

We know that the trial of this case is going on and the collection of such report is the matter of investigation. It is found that the IO acted negligently because he sent the seized cartridges to the FSL, Kolkata on 04.08.15 i.e. at the belated stage because he submitted charge sheet on 17.08.15. It seems to me that I was sitting negligently or sleeping over the

investigation of this case. The investigation was over and this is not the appropriate stage for agitating before the court for time to collect expert's report. This court thinks that such prayer with the plea of time only can drag the disposal of this case and the accused persons should not be harassed for the apparent negligence of the I.O. concerned.

Considering all such facts and circumstances, I am of the opinion that the petition submitted by the Ld PP in charge has no merit and such petition is harassing at the same time. Thus, the prayer of petition submitted by the Ld PP in charge is rejected.

Ld PP in charge is directed to get ready at once for evince.

The record is taken up for evidence. Witness Paltu Biswas is examined and cross examined as PW-3 and discharged. Witness Subir Biswas is examined in chief as PW-4 and his cross examination is declined by the defence and discharged. During evidence the signature of PW-3 on a written paper (the seizure list dated 12.05.15) is marked as Exbt.-2.

To date (21.12.2018) for production, appearance of the accused persons and evidence.

Addl. Sessions Judge,  
4<sup>th</sup> Court, Howrah.