

S.T. 11(09) of 2022
S.T. No. 120 of 2020
CNR No. WBHW060000042020

Order No. 24 dated 14.02.2023

Today is fixed for evidence of C.S.W. 1. Sole accused person, who is in custody, is produced and is being represented by his Ld. Lawyer. Ld. P.P.-in-charge has come up with C.S.W. 1 namely Sanjoy Malik, who is examine as P.W.1. He proves his signature on written complaint (Exbt. P-1), Seizure list dated 02.02.2020 (Exbt. P-2) and signature on the TIP report (Exbt. P-3). This apart the witness also identifies certain articles such as yellow coloured shirt (Mat.Exbt. P-I), blue-sky-white coloured Jacket (Sweater) (Mat. Exbt. P-II) and one black coloured plastic chappal (Mat. Exbt. P-III). At this stage Ld. Lawyer for the accused person files one application praying for deferring the cross-examination of P.W. 1 till completion of examination-in-chief of C.S.W. 2, C.S.W. 3 and C.S.W.8 in terms of Section 231(2) Cr.P.C. According to Ld. Lawyer for the accused person to ensure the fair trial and to protect the interest of his client such a prayer needs to be allowed. Ld. P.P.-in-charge leaves the matter to the discretion of the Court.

It goes beyond saying that the provision of Section 231(2) Cr.P.C. has been employed to ensure a fair trial so that the accused person cannot be insisted to disclose his defence at the threshold so that to enable the prosecution to fill up the lacuna afterwards. Be that as it may, the provision of Section 231(2) Cr.P.C. needs to be implemented judiciously and such a power of the Court should only be used sparingly.

On a meticulous reading of the materials on record as well as case diary, this Court finds that the status of C.S.W. 2 namely Dolon Malik, who happens to be the wife of P.W. 1, comes under the purview of Section 231(2) Cr.P.C. only. So far as regards C.S.W. 3 and C.S.W. 8 are concerned, this Court finds that the prayer made on behalf of the accused person is devoid of any substance.

In view of the above facts and circumstances the petition under Section 231(2) Cr.P.C. stands allowed but in part. The cross-examination of P.W. 1 be deferred till examination-in-chief of C.S.W. 2.

The said prayer in respect of C.S.W 3 and C.S.W. 8 stands rejected.

Fixing **30.03.2023** for evidence of C.S.W. 2.

Accused as before.

Dictated & corrected by me

Additional Sessions Judge,
Amta, Howrah
(J.O. Code : WB00883)

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