

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, 2ND COURT,
ULUBERIA, HOWRAH**

**Present : Atrayee Manna Chowdhury, ADJ, Uluberia,
ADJ 2nd Court, Uluberia, Howrah ((JO Code : WB 00848)
S.T. No.129/2023 (New S.T. No.117/2023)**

CNR No.: WBHW09-001484-2023

Order No.08, dated 08.05.2025 :

Today is fixed for production, appearance and further evidence of PW-1.

Out of total five (05) accused, four (04) accused persons namely, Mohit Kumar, Sandip Kumar, Sarda Devi and Akash Kumar on court are present filing hazira.

Rest one (01) custody accused person namely, Jai Prakash Kumar Rajni @ Prakash Albela is produced through V/C.

Ld. Advocates for the accused persons are present.

Ld. Addl. PP-in charge is also present by filing hazira.

PW1 namely Ajay Kumar Rana further examined in chief in full.

The written complaint is marked as Exhibit **P/1/PW1**. The signatures of PW-1 upon letter dated 29.12.2022, Carbon copy of dead body made over challan, seizure list dated 01.01.2023, seizure list dated 12.01.2023 are marked as Exhibits **P/1/PW1 (with objection)**, **P/3/1/PW1**, **P/5/1/PW1**, **P/6/1/PW1**. The photocopy of Aadhaar Card standing in the name of Ajay Kumar Rana is marked as Exhibit **P/4/PW1** and two laptops are marked as Exhibit **MO-I and II** respectively.

At the stage of cross-examination of PW1 Ld. Defence Counsel submits that a petition under section 231 of CrPC has been filed on behalf of all the accused persons and prays for taking up the same for hearing. On their prayer cross examination of PW-1 is deferred.

The petition under section 231 of CrPC is taken up for hearing.

Perused. Heard both sides.

Submitting the petition the accused persons contended that CSW 1 (PW-1), CSW-6, CSW-7 and CSW-8 are relations and as such are interested witnesses. It has been further argued that if the PW-1 is cross examined at this stage, then the defence case will be disclosed and interest of the accused persons will be prejudicially affected thereby. It has been proposed that cross examination of PW-1 should be deferred till recording of examination in chief of CSW-6, CSW-7 and CSW-8 and then cross examination of all four witnesses shall be recorded.

Ld. P.P In Charge opposed such prayer stating inter alia that if the prayer is allowed then the proceedings will get delayed.

Wisdom may be sought in this context from a judgment reported in (2019) 13 SCC 297, Wherein Hon'ble Apex Court considered provision of law as encrypted in Sections 231(2) and 309(1) of Cr.P.C. Hon'ble Court holding that the factor relating to non deferral which would enable subsequent witnesses giving evidence on similar facts to tailor their testimony to circumvent defence strategy, may be considered by a judge while exercising the discretion under section 231(2) of CrPC. Yet again Hon'ble Court took note of several circumstances in which Hon'ble High Courts have approved exercise of such discretion, so as to avoid prejudice on account of disclosure of strategy. One such circumstance is where witnesses were related to each other and were supposed to depose on the same subject matter and facts.

Coming back to this instant case I find that PW-1, CSW-6, CSW-7 and CSW-8 are relations. CSW-6, CSW-7 and CSW-8 are mother, and sisters respectively of PW-1. It is also clear that they are supposed to depose on same subject matter and facts.

That being the factual position the apprehension of the defence to the extent that non deferral of cross examination of PW-1 till recording of examination in chief of CSW-6, CSW-7 and CSW-8, would enable CSW-6, CSW-7 and CSW-8 to adduce evidence on similar facts tailoring their testimony to circumvent defence strategy, can not be entirely over ruled.

In other words, the available circumstances justify exercising of discretion under section 231(2) of CrPC, deferring cross examination of PW-1 till completion of recording of examination in chief of CSW-6, CSW-7 and CSW-8. The petition under section 231 of CrPC is accordingly allowed subject to condition that cross examination of PW-1, CSW-6, CSW-7 and CSW-8 shall be concluded within the span of single working day.

Fix **30.06.2025** for production, appearance and evidence of CSW-6,7 and 8.

Custody accused is remanded to further J/C till next date.

Prosecution to take necessary steps for issuance of summons and production of case alat, if any.

Dictated & corrected by me.

Uluberia, Howrah.

Uluberia, Howrah.

