

Order dated 04.10.2024

Today is fixed for further argument.

The accused is produced from custody.

The Ld. P.P. in-charge and Ld. Counsel for the accused are present.

An application is filed by the Ld. P.P. in-charge submitting therein that the seized weapon of assault is required to be produced before this court and marked as exhibit and the seizure witnesses are required to be examined. The production and exhibition of the seized article is necessary for just decision of this case.

It is submitted by the ld. P.P. in-charge that the seized article is lying in the police malkhana. He prays for passing a direction upon the I.O./ I.C. Samuktala P.S. for production of the seized weapon before this court along with issuing notice upon the seizure witnesses.

On perusing the record it appears that the I.O. of this case S.I. Basudev Sarkar posted as Inspector of Ketugram P.S. on 26.04.2018 was examined as P.W 12 who stated that he had seized offending weapon (bhojali) which was attached with the body of the deceased right from the time of murder. He also prepared the seizure list of the offending weapon which was signed by witnesses constable 814 Nisith Ranjan Barman and constable 1355 Naresh Chandra Dey Sarkar. It appears from the charge sheet that constable 814 Nisith Ranjan Barman has not been cited as a witness. Thus, taking recourse to the provisions under section 348 BNSS and that under section 311 Cr. P. C., let the aforementioned witnesses be examined for proper adjudication of this case.

Now, according to the principles culled out by Hon'ble Apex Court in (2013) 14 SCC 461 it appears that the evidence of constable 814 Nisith Ranjan Barman and constable 1355 Naresh Chandra Dey Sarkar and Inspector Basudeb Sarkar. is essential for just decision of this case. In view of the above discussions, the prayer of the Ld. P.P. in-charge to examine seizure witnesses constable 814 Nisith Ranjan Barman and constable 1355 Naresh Chandra Dey Sarkar and Inspector Basudeb Sarkar. under Section 348 BNSS is allowed for the ends of justice and for proper adjudication.

The Inspector Samuktala P.S. is directed to produce the offending weapon seized in connection with Samuktala P.S. case no. 418/08 dated 22.08.08 seized on 24.08.2008 vide seizure list, P.R. no. 59/2008 on next date fixed.

Fixing 07.11.2024 for evidence of constable 814 Nisith Ranjan Barman and constable 1355 Naresh Chandra Dey Sarkar and Inspector Basudeb Sarkar. under Section 348 BNSS and production of the offending weapon by the Inspector Samuktala P.S.

Accused to be produced from D.C.H.

Let a copy of the order be forwarded to I.C. Samuktala P.S.

Sd/-

Addl. Sessions Judge, F.T.C. -1  
Alipurduar  
JO. Code – W.B. 0100

Office of the Addl. Sessions Judge, F.T.C. -1, Alipurduar.

Memo no. \_\_\_\_\_ dt. \_\_\_\_\_

Copy forwarded to -

1. I.C. Samuktala P.S.

Addl. Sessions Judge, F.T.C. -1  
Alipurduar  
JO. Code – W.B. 01009