

Sessions Case No. 136/2010

***Present:- Shri J.B.Biswas,
Addl. Sessions Judge,
Fast Track, First Court, Malda .***

Order No.50

20.12.12

Today is fixed for evidence .

Out of 20 accused persons,19 accused persons are present by filing haziras and one accused is absent , Krishnendu Narayan Chowdhury is absent by petition U/s 317 Cr.P.C.

Ld. Special P.P is present by filing hazira together with a petition praying for rescheduling of dates of trial .

He submitted before me that no witnesses are available today and as such he submitted an application for rescheduling of the trial dates .

Ld. Advocate for the defence , Mr. Tirtha Bose submitted that this Court was pleased to direct the I.C, English Bazaar P.S for his regular attendance before the Court with the charge-sheeted witnesses in view of the solemn Judgment as reported in 2002 SCC (Cri) 230 and according to provision U/s 309 of Cr.P.C. But the said I.C. did not pay any heed to comply the direction of this Court and as such a drastic action should be taken against him where the accused persons are attending on each date of proceeding before this Court to face the trial of this case .

Ld.Special P.P, Mr. Tarit Ojha submitted that I.C,English Bazaar P.S assist him regularly and due to miscommunication he did not come before the Court and on the next date of proceeding he will comply the direction of this Court .

From the attending fact and circumstances of this case, it reflects that the I.C,English Bazaar P.S was directed to appear with the witnesses on each date of trial and the same was communicated to him through S.P,Malda vide Memo No.397, dated- 04.12.2012 and the concerned I.C was asked for active co-operation with the Court and Special P.P. But curiously enough the said I.C, English Bazaar P.S did not pay any heed to appear with the witnesses in view of the solemn Judgment of Hon'ble Supreme Court . Four consecutive dates are elapsed due to inactive co-operation from the end of prosecuting agency and the accused persons are being harassed for non production the charge-sheeted witnesses .

It is not evident from the four corners of the record that any summon has been sent upon the witnesses or not by the prosecution.

On being asked Ld. Special P.P failed to appreciate about the actual assistance given by the I.C,English Bazaar P.S specifically . Fact remains that no assistance has been given by I.C Englishbazar P.S. despite of sending copies of order. This is completely de-horsing attitude and derogatory to the dignity and prestige of the Court .

Another paramount consideration is in this case that despite of sending copy of order through S.P. Malda and also personally to R.I. Malda for his regular attendance with sufficient security at the time of trial ,The R.I. Malda did not comply the direction of this Court. The conduct of R.I. Malda was reported to the S.P. Malda . But in vain.

On pan optic consideration of the matter as reflected from the four corners of the record it can safely be presumed that the I.C,English Bazaar P.S. did not comply the direction of this Court and in view of the Judgment as referred by Defence Counsel an appropriate action should be taken against him .

It is also reflected from the order sheet dated- 17.12.2012 that the conduct of the I.C, English Bazaar P.S was also reported specifically to S.P , Malda , for taking note and the said order was also communicated to I.C,English Bazaar P.S vide Memo No. 431(3), dated-17.12.2012. But it is also in vain.

Considering all these above , I am inclined to allow the petition for rescheduling of the trial dates which is as follows :-

To 28.01.2013, 29.01.2013, 30.01.2013 and 31.01.01.2013 for evidence of prosecution .

Issue summons accordingly .

Ld. Special P.P is requested to take effective steps and endeavor so that the trial of the case may not be delayed and special care and attention to be given in respect of production of alamats and witnesses before the Court if any .

I.C,English Bazar P.S and R.I.Malda both are directed to show-cause as to why proceeding U/ s 174 Cr.P.C. shall not be initiated against them for disobedience of Court' order .

Let a copy of this Order be sent to I.C,English Bazaar P.S and R.I.Malda through D.I.G, Malda .

Another copy is forwarded to Home Department, Govt. of West Bengal for information and taking necessary action.

Accused persons are as before .

Dict. & Correct.

by me .

Sd/-J.B.Biswas,

A. S. J

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Addl. Sessions Judge,

Fast Track, First Court, Malda .

