

Sessions Case No. 120 of 2017

Present : Sri Arun Singha
Addl. Sessions Judge,
3rd Court, Malda.

Order No. 117 dated 22-11-2022

Today is fixed for production, further hearing of the petition and order.

Accused persons Sani @ Sanyrul Sk. and Tahirul Sk. are produced from J.C.

Accused Karimullah Sk. on bail is present.

Ld. Counsels for both sides are present.

Another petition u/s 311 Cr.P.C. is also filed on behalf of the prosecution with a prayer for examination of one Kishore Saha, Son of Lt. Sudhir Saha of Baliadanga under Kaliachak P.S. regarding the FIR for not being cited as witness in the charge-sheet.

Heard both sides.

After hearing both sides regarding the petition u/s 311 Cr.P.C. and on perusal of the same it appears that said Kishore Saha has not been cited as a witness in the charge-sheet submitted by the I.O., while said Kishore Saha is the scribe regarding the FIR.

In the circumstances, after hearing both sides and considering all aspects and the evidence on record for the interest of justice, the prayer of the prosecution made u/s 311 Cr.P.C. is considered and allowed to examine said Kishore Saha as a prosecution witness by the date fixed positively.

After hearing both sides, with regard to the petition u/s 294 Cr.P.C. filed by the prosecution and comparing the same with the evidence on record, it is found that the said petition is filed by the prosecution solely and wholly on the ground that the signatures of the then Learned J.M., 3rd Court, Malda regarding the T.I. Parade dated 21.11.2016 and 27.12.2016 including identification of the suspects may be considered and be exhibited as a document in view of Section 294 Cr.P.C. With reference to this on perusal of the objection filed on behalf of the accused persons, it is understood that by filing such objection prayer is made to the extent that opportunity should be given for the accused persons to cross-examine the said Learned J.M., 3rd Court, Malda regarding the said T.I. Parade.

In view of the aforesaid facts and circumstances and on perusal of the evidence on record, it is found that in the meantime total 22 prosecution witnesses have been examined, cross-examined and discharged, while during their evidence total 17 documents have been exhibited including the document regarding T.I. Parade in part.

In the circumstances, prayer made u/s 294 Cr.P.C. by the prosecution is considered and rejected at this stage on the ground that already considering the provisions u/s 80 of Evidence Act, the document regarding the said T.I. Parade has already been exhibited though in part.

On minutely perusal of the case record, it further appears that on several occasions summons have been duly issued for examination of the then Learned J.M., 3rd Court, Malda namely, Kuntal Bhattacharya while on each occasion he has remained absent without any

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Sessions Case No. 120 of 2017

Contd....Order No. 117 dated 22-11-2022

information or intimation to the Court regarding his absence and thus several dates have been fixed up for his examination.

Record reveals that it is a case of the year 2017 under Section 302/201 of IPC.

Accordingly, the case is delayed due to non-examination of said J.M.

In the circumstances, issue BWW against the said J.M. 3rd Court, Malda namely, Kuntal Bhattacharya.

Fix **17-12-2022 and 23-12-2022** for production, ER of BWW and evidence.

Accused persons Tahirul Sk. and Sani @ Sanyrul Sk. are remanded to J.C., fixing 17.12.2022 for their production.

Accused Karimullah Sk. on bail is directed to appear on the dates fixed.

Dictated and Corrected by me

Addl. Sessions Judge,
3rd Court, Malda.

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