

In the Court Of Additional Sessions Judge, 4th Court, Barasat, North 24 Parganas.

S.T. 02(11)2022

Present : Sri Saugata Chakraborty

JO Code- WB00767

State - vs - Sambhu Aich and others

(Ref. : Barasat P.S. case No. 220 dated 22.03.2002, under sections 498A/306 of the IPC)

Order no.13, dated 22.08.2024

All the three accused persons Sambhu Aich, Subhash Aich and Mita Dutta on bail are present.

Learned P.P.-in-charge and learned advocate for the defence are present.

A petition under section 231 of the Code of Criminal Procedure filed by the accused persons, namely Sambhu Aich, Subhash Aich and Mita Dutta on 18.03.2024 is moved today.

Copy served upon the prosecution.

No objection is raised except that delay in moving the petition.

The defence craves to cross-examine C.S.W. 1 Sefali Halder, C.S.W. 2 Oli Halder, C.S.W. 6 Dolly Mallick, C.S.W. 7 Joydev Mallick together for their being relatives of the deceased. The petition is filed and moved after examination of one witness, namely, C.S.W. 4.

In Criminal Appeal No. 1321 of 2018, the Hon'ble Supreme Court has been pleased to observe, *while deciding an Application under Section 231(2) of the Cr.P.C., a balance must be struck between the rights of the accused, and the prerogative of the prosecution to lead evidence.*

The petition is allowed subject to payment of cost of Rs.501/- to be payable to the DLSA, North 24 Parganas, at Barasat, for delay in filing the application when charge was framed on 18.11.2022, on conditions that the discretion of this court exercised and granted under section 231(2) of the Cr.P.C. will be withdrawn if the following conditions are **not** complied :

- (i) No grant of request for deferral of cross-examination of any witness will be given;
- (ii) The case-calendar, prepared in accordance with the above guidelines, must be followed strictly, unless departure from the same becomes absolutely necessary;
- (iii) Any allegations of attempt or of subjecting any witness to undue influence, harassment or intimidation, if reported, will be treated seriously.

This is an old case of 2002 and it requires expeditious disposal.

Contd....

S.T. 02(11)2022

Contd. Order no.13, dated 22.08.2024

Fix 24.09.2024, 25.09.2024, 26.09.2024 and 27.09.2024 for examination of C.S.W. 1 Sefali Halder, C.S.W. 2 Oli Halder, C.S.W. 6 Dolly Mallick, C.S.W. 7 Joydev Mallick to be followed by cross-examination of all the four witnesses immediately after completion of their examination-in-chief, in quick succession.

On prayer of the parties the date 23.08.2024 is shifted to 24.09.2024.

Learned P.P.-in-charge is requested to adhere to the above order of appearance of witnesses.

The I.C. Barasat P.S. is directed to secure presence of the above witnesses in Barasat P.S. case No. 220 dated 22.03.2002, under sections 498A/306 of the IPC.

A copy of order be sent to the I.C. Barasat P.S.

B.C.-II is directed to comply at once.

Dictated & corrected by me,

4th ASJ, Barasat

Additional Sessions Judge

4th Court, Barasat,

24-Parganas(N)

22.08.2024