

28/ 21.03.2023

Today is fixed for evidence of C.S.W.16.

The accuseds are produced from J.C . They are taken into custody and is remanded to J.C till date.

Id. Special P.P is present.

The record is taken up for recording evidence of C.S.W.16.

C.S.W.16 is doctor Ashfaquella Siddique. He is examined as P.W.4. Through him prosecution has proved Medical Examination Report of the VG prepared by him Dhanyakuria BPHC and the said Report is marked as Exbt. 3. Through this P.W.4 the prosecution has also proved a Certificate issued by him on 25.03.22 and the Certificate is marked as Exbt. 4. Thereafter the Cross examination of P.W.4 is started. During cross examination of P.W.4 the ld. Advocate for the defence has submitted that he did not get the copy of the certificate which has been marked as Exbt.4 and therefore he has filed an application before this Court to submit a copy of the document. The accused has filed another application for directing the prosecution to produce the Original Emergency Ticket of Dhanyakuria Rural Hospital in respect of the Victim Girl. Both the applications are taken up one by one for disposal.

The application of the accused to serve the copy of Exbt. 4 is firstly taken up.

The ld. Special P.P submits that the prosecution has already submitted all the documents to comply with the provision of Section 207 Cr.P.C.

The ld. Defence counsel has submitted that the prosecution did not supply the copy of the Certificate issued by doctor Ashfaquella Siddique and therefore prays for passing direction to the prosecution to supply it's copy.

Hd. both sides. Perused the materials on record. Considered.

The case is now at the stage of evidence. The defence till this date has not stated that the accused did not get the copy of the Certificate issued by doctor Ashfaquella Siddique. When the accused did not raise any question at the stage of supply of copy and received it without any objection then at this stage of P.W the defence can not raise any question as to non supply of document. Now at this stage it is presumed that all the documents are supplied to the accused complying with the provision of Section 207 Cr.P.C. Moreover the Certified Copy of the document has already been marked as Exbt and the defence has every opportunity to get the certified copy of this document. Therefore, prayer for supply of the copy of Certificate issued by the doctor Ashfaquella Siddique of Dhanyakuria BPHC marked as Exbt. 4 is rejected on contest.

The ld. Advocate for the defence counsel has submitted another application that from the Copy supplied to him by the prosecution he found that there was an Emergency Ticket of Dhanyakuria Rural Hospital in respect of the Victim Girl which was duly prepared by P.W.4 but the said document is not produced by the prosecution at the time of evidence and the said document is necessary for cross examination of P.W.4 and thus, the ld. Defence counsel has filed an application with a prayer to pass necessary direction to produce the said document and to adjourn the cross examination of P.W.4 till production of that document.

The ld. Special P.P submits that the prosecution is at liberty to prove his case by the documents and witnesses as per his choice and he is not bound to prove the original Emergency Ticket. He further submits that the defence can prove documents and adduce witness as per their choice by producing D.W.

Hd. both sides. Perused the materials on record.
Considered.

The case is now at the stage of prosecution witness. The accused's prayer is to direct the prosecution to produce the original Emergency Ticket of Dhanyakuria Rural Hospital in respect of the Victim Girl. An original Document becomes necessary when a party intends to prove it. It is the prerogative of a party to a case as to what he would prove to establish his/its case and he/it can not be compelled to prove any document or produce any witness. The accused is at liberty to establish its case by proving any document or producing his witness in accordance with law when he will adduce evidence. Therefore the petition of the accused to produce the original Emergency Ticket which has not proved till now by the prosecution during P.Ws is rejected on contest.

It is now 5.00 p.m. The case is adjourned at this stage.

Fix **04.04.2023** for further cross examination of P.W.4 and production of accused persons.

Issue summon accordingly.

Dictated & corrected by me

Judge, Spl. Court (POCSO Act)
Basirhat, North 24 Parganas

Judge, Spl. Court (POCSO Act)
Basirhat, North 24 Parganas
J.O Code : WB 00894