

Spl (POCSO) 23 of 2022

Order No. 31 dt. 31.01.2024

Today is fixed for evidence of P.W.

Both the accused persons namely Sahar Ali Sardar @ Sagar and Rojina Bibi are produced from J.C and are taken into custody and remanded to J.C till 27.02.2023.

The Ld. Special P.P , the ld. advocate for the accused person Rojina Bibi and the ld. advocate for the defacto complainant are present in the court room. The witness Jaki Rahman is also present in the court room. The ld. Special P.P Shri Shyamal Kanti Dutta who has been specially appointed as advocate for this case by the Prosecution comes from Barasat Court and therefore though he filed hajira in this case but he did not mention the name of the witness during submission of hazira and when it is pointed out by the ld. advocate for the defence counsel Shri Arpan Halder then the ld. advocate for the defacto complainant has submitted that it was an untentional mistake and subsequently at the time of taking evidence the Ld. Special P.P also admitted his mistake and has submitted that from the next date he will not forget to specify the name of the witness at the time of filing hajira in the court and this court hereby cautioned the Ld. Special P.P to remain careful in this regard from the next date.

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The ld. advocate for the accused person Sahar Ali Sardar @ Sagar is not present in the court room till 2.30 p.m inspite of specific direction of this court for starting this case sharp at 2.00 p.m .In this case there is the direction of the Hon'ble High Court at Calcutta in CRM (DB) 4806 of 2023 on 08.01.24 to complete the examine the scheduled witnesses positively within fortnight and this court was aware of the order of the Hon'ble Court on 16.1.24 therefore the schedule is fixed considering the convenience of the ld. Special P.P Shri Shyamal Kanti Dutta who is a renowned advocate and comes from Barasat Court and considering the convenience of Shri Arpan Halder, the ld. advocate for the accused Sagar, who is also a renowned advocate and is the Secretary of Criminal Bar of Basirhat Bar Association, for the examination of these three witnesses in three dates of this month and it is the last day of the fortnight as it was directed by the Hon'ble Court. Shri Arpan Halder never sought for any accomodation for him within this 20 minutes though always 5 or 6 juniors of him accompany him during court proceedings and it is learnt from the ld. advocates of the accused Rojina Bibi that he is busy in hearing in other court. This court being a single ADJ of this sub division and being the filing court of Criminal Misc Cases, Civil and Criminal Appeals, Criminal Revisions etc. has to deal with all the Criminal Misc Cases under sections 439 Cr.P.C and being a Special POCSO Court has to deal with Crminal Misc Cases under section 438 Cr.P.C and other bail applications and Civil cases at the first half of the Court and to accomadate the completion of this case as per direction of the Hon'ble Court the witnesses of other cases are taken before 2.00 p.m in these three dates. This is a highly contested case and as there is a direction of the Hon'ble Court to complete the evidence of the witness within fortnight and as this is the last date of such timeline and this court can not flout the direction of the Hon'ble Court therefore after waiting till 2.20 p.m for Shri Arpan Halder the case is taken up for taking examination in chief of the witness no. 8 in presence of the ld. advocates of the accused Rozina Bibi.

After completion of the examination of P.W.8 the ld. advocate Shri Arpan Halder has entered into the court room at about 2.30 p.m and asked the court as to why the court did not wait for him till his arrival as he was busy in hearing in FTC 1st Court and when this court replied him that as per the

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direction of the Hon'ble Court this court have to complete the evidence of this witness today therefore only the examination in chief has been taken till then and requested him to start cross examination then he raised allegation against the court that this court is biased and always takes side of the prosecution and has further stated that he would not cross examine the witness today and thereafter left the court room.

The ld. advocate for the accused person Rojina Bibi has cross examined the witness no.8.

The ld. advocate Shri Arpan Halder was appointed from SDLSC, Basirhat Court and therefore when he has declined to cross examine the evidence of the witness then the accused Sagar can not remain undefended. In the above backdrop the cross examination of P.W.8 is deferred . In such a situation let another advocate be appointed in connection with this case for the accused Sagar. Let a letter be issued to the Chairman SDLSC Basirhat Court requesting him to appoint an advocate to represent the accused Sahar Ali Sardar @ Sagar in place of Shri Arpan Halder to cross examine P.W.8 whose evidence has been deferred today due to the incident as stated herein above.

At the end the ld. Special P.P requests the court not to specify the C.S number of the witness in the order sheet and he submits that whenever the names of the witnesses are disclosed thereafter they have been gained over by the defence and to avoid the same they do not want any specification of the names of the witnesses in the order sheet of the court. He also submits that in the CBI Courts also the names of the witnesses are not mentioned. The ld. defence counsel for Rojina Bibi submits that if they do not know the nature of the witness then how they would prepare themselves and in reply the ld.Special P.P submits that now he will produce all the private witnesses. This court has noticed that already P.W.7 who is not any relative of the VG and nor any public witness, has been declared hostile by the prosecution and considering the submission of both sides fix 27.02.2023 for cross examination of P.W.8 on behalf of the accused Sahar Ali Sardar @ Sagar and fix

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28.02.2023 and 29.02.2023 for evidence of two more independent witnesses considering the convenience of the ld. advocate for the accused Rojina Bibi and the ld. Special P.P when both of them were unwilling to take any date for evidence prior to 29.02.2023 requesting their inconvenience on the other dates prior to these dates.

Dictated & corrected by me

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

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J.O Code : WB 00894