

**In the Court of the Additional District & Sessions Judge,
Fast Track Court – I,
Basirhat, Dist.- North 24 Parganas**

Present

Shri Pradip Kumar Adhikary, WBJS,
J O Code (UID No.) - WB916,
Additional District & Sessions Judge,
Fast Track Court – I,
Basirhat, Dist.- North 24 Parganas.

**CNR No.- WBNP 1000 1689 2019
Sessions Case No.- 337 of 2019
(Registration Number)
ST No.- 61 of 2019**

arising out of Basirhat PS Case No.- 1462 of 2016 dated 06/12/2016

**Charge framed under sections 363/366/368/370/370A/342/343/344/346/419/120B of the
Indian Penal Code, 1860
and
sections 3/4/5/6/7/9 of the Immoral Traffic (Prevention) Act, 1956**

State

v.

**Hasirun Laskar @ Jhuma Laskar, Rafikul Laskar, Gouri Tamang, Mrinal Kanti
Sarkar @ Gopal, Pooja Lal Bahadur Sharma @ Asma, Sagar @ Israfil Laskar and
Priti Tamang @ Pawar Madam, since deceased**

Order No.- 40
01/02/2023

Today is fixed for hearing of three applications filed by the accused Hasirun Laskar @ Jhuma, Rafikul Laskar and Gouri Tamang and cross-examination of P.W.- 01 by the accused Pooja Lal Bahadur Sharma @ Asma and Sagar @ Israfil Laskar and evidence of the de-facto complainant i.e. CSW No.- 01.

Out of seven (07) accused the case against the accused Priti Tamang @ Pawar Madam was filed for ever on 01/02/2022 since she died.

The case is now proceeding against **six (06) accused.**

Out of six (06) accused three (03) accused **Hasirun Laskar @ Jhuma Laskar, Mrinal Kanti Sarkar @ Gopal and Pooja Lal Bahadur Sharma @ Asma are on Court bail.** All these three (03) accused who are on Court bail are present by filing separate hazira.

The remaining three (03) accused **Rafikul Laskar, Gouri Tamang and Sagar @ Israfil Laskar are produced from judicial custody** and they are remanded to judicial custody till next date.

The victim girl and the de-facto complainant have filed hazira through Ld. Advocate.

The Ld. Special Public Prosecutor is present by filing hazira.

The victim girl i.e. CSW No.- 02 and the de-facto complainant i.e. CSW No.- 01 are present.

The Investigating Officer is also present.

The accused Sagar @ Israfil Laskar has filed an application under section 231(2) of the CrPC praying for defer of the cross-examination of the CSW No.- 01, the de-facto complainant, CSW No.- 02, the victim and CSW No.- 03, sister of the victim, since there are interested witnesses being father and daughters.

The copy of the application was served upon the Ld. Spl. PP.

On the last date i.e. on 31/01/2023 after cross-examination of the P.W.- 01 by the accused Mrinal Kanti Sarkar @ Gopal, the accused Hasirun Laskar @ Jhuma Laskar filed an application praying for defer the cross-examination of P.W.- 01 till the examination of CSW Nos.- 01, Badshar Sardar, CSW No.- 02, the victim girl and CSW No.- 04, another victim girl.

The accused Gouri Tamang also filed an application under section 231(2) of the CrPC praying for defer of the cross-examination the P.W.- 01 till the examination-in-chief of her father i.e. CSW No.- 01.

The accused Rafikul Laskar has also filed an application praying for cross-examination of the de-facto complainant, victim girl and sister of the victim girl i.e. CSW No.- 03 jointly since they are related to each other.

The copy of the applications were served today to the Ld. Spl. PP.

All the four applications are taken up together.

Heard all the parties in length.

The Ld. Advocate on behalf of the accused Sagar @ Israfil Laskar has submitted that since the CSW No.- 01 is father of the victim i.e. CSW No.- 02 and CSW No.- 03 and since the CSW No.- 02 and CSW No.- 03 are sisters they are very much interest witnesses and as such he has prayed for defer the cross-examination of those witnesses for protecting the interest of the accused.

The Ld. Advocate on behalf of the accused Hasirun Laskar @ Jhuma Laskar has submitted that there are two victims i.e. CSW No.- 02 and CSW No.- 04 and the de-facto complainant i.e. CSW No.- 01 is father of the CSW No.- 02 and as such he has prayed for passing necessary order so that cross-examination of the CSW No.- 01 may be deferred till the examination-in-chief of CSW No.- 02 and CSW No.- 04.

The Ld. Advocate on behalf of the accused Gouri Tamang has prayed for deferral of the cross-examination of the CSW No.- 02 i.e. victim till the examination of her father i.e. CSW No.- 01.

The Ld. Advocate on behalf of the accused Rafikul Laskar has pleaded that since the CSW No.- 01, CSW No.- 02 and CSW No.- 03 are related to each other, they are required to be cross-examined jointly and as such he has prayed for passing necessary order to that effect.

Endorsing his objection in all those four petitions the Spl. PP has submitted that the victim i.e. CSW No.- 02 is the main witness of this case and she gave statement under section 164 CrPC before the Ld. Judicial Magistrate, Basirhat. Another victim is the victim of another case which is pending in another Court. The de-facto complainant has lodged just a missing complaint and he is not present at the PO as well as at the time of recovery of the victim. He has further submitted that the sister of the victim is also not an eye witness and he may not tender her witness during trial. On the above circumstances the Ld. Spl. PP has prayed for rejection of all the applications.

The Ld. Advocates seeking deferral of cross-examination of the victim and the de-facto complainant till the examination of sister of the victim have submitted that how they

will anticipate that the prosecution will not tender evidence of sister of the victim.

Referring the Guidelines for Recording of Evidence of Vulnerable Witnesses as laid down by the Hon'ble Court in the light of direction of the Hon'ble Supreme Court in Smruti Tukaram Badade v. State of Maharashtra in Criminal Appeal No.- 1101 of 2019 the Ld. Advocate on behalf of the de-facto complainant as well as the victim has submitted that since there are different accused intending to cross-examine separately, they may be directed to provide questions in advance.

On being requested the Ld. Advocate on behalf of the accused Pooja Lal Bahadur Sharma @ Asma who is ready to cross-examine the victim and who has not filed any petition under section 231(2) of the CrPC has submitted that the Court is required to pass a balance order keeping in mind the interest of both sides i.e. the accused as well as the victim and witnesses. He has submitted that the interest of the accused may not be jeopardised.

Since elaborate hearing has been done the Court needs some accomodation for passing appropriate order in compliance with the mandates of the Hon'ble Apex Court as well as guidelines of our Hon'ble Court and also keeping in mind the interest of of both the rival parties as well as for promoting the ends of justice.

Today is also fixed for filing written explanation and show-cause by the Bench Clerk and placing the report submitted by the Investigating Officer on 25/01/2023 and notification of the date of passing order regarding application for cancellation of interim bail granted to the accused Puja Lal Sharma @ Asma on 12/12/2019 filed by the de-facto complainant Badsha Sardar on 07/02/2020.

The Bench Clerk has neither filed any written explanation nor filed any show-cause nor placed the report submitted by the Investigating Officer on 25/01/2023.

Giving a further opportunity the Bench Clerk is directed to comply the order of the Court by the next date.

The Presiding Officer has applied for leave from 06/02/2023 to 24/02/2023 and as such the case is fixed on 27/02/2023 for passing appropriate order regarding four different application under section 231(2) CrPC; and 02/03/2023 for filing written explanation and show-cause by the Bench Clerk and placing the report submitted by the Investigating Officer on 25/01/2023 and notification of the date of passing order regarding application for cancellation of interim bail granted to the accused Puja Lal Sharma @ Asma on 12/12/2019 filed by the de-facto complainant Badsha Sardar on 07/02/2020.

Typed by me

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