

S.C. No. 22 of 22 (Reg 22/22)

28.11.22

Today is fixed for evidence.

Sole accused Badal Mahato is produced from J/C.

Ld. Addl. PP and ld. Defence counsel both are present.

One witness namely Ramesh Buskey is also present today.

At this stage ld. Lawyer for the accused person filed a petition stating that he is unable to cross examine the witness due to his physical illness.

No objection is raised by ld. Addl. PP. Today is the last day of schedule.

Considering the prayer of ld. Defence counsel the schedule today for evidence is adjourned. Let a fresh schedule be prepared.

To 01.02.23 for examination of CSW No.6,

02.02.23 for examination of CSW No.4 & 5,

03.02.23 for examination of CSW No.8 & 9.

Ld. Addl. PP is to issue summons upon PW2 Bijoy Baskey for his evidence (cross examination) as per the recall petition of ld. Defence counsel dated 14.09.22.

Let the accused person be remanded to J/C till next date.

The petition filed by the ld. Defence counsel dated 14.09.22 for recalling PW2 Bijoy Baskey is taken up for hearing.

Heard both sides. Ld. Lawyer for the accused person submitted that he has not asked any direct question as to whether the PW2 has seen the incident or not rather asked the question that you are an old man and has left visibility in your eyes. But the answer which the witness given was not recorded as the witness stated that he is able to see and he can see upto one mile distance.

It is also submitted that as the said question of ld. Defence counsel was not recorded that is to be asked again to the witness and the recording of the very first line as was done is to be rectified.

Ld. Addl. PP submitted that he has no objection regarding the recall.

Heard both sides. Perused the petitions, the evidence of PW2 and the materials on record. Considered.

The petition is neither verified nor filed with any affidavit.

It is submitted by ld. Lawyer that the recording of very first line of cross examination of PW2 was not recorded correctly and the answer given by the witness was not noted properly.

Under such circumstances let the very first line of the cross examination of PW2 that 'I have seen the incident' be recorded with the noting 'objected to'.

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The parties i.e. ld. Addl. PP and ld. Defence counsel both are at liberty to argue in this regard.

As regards the petition for recall, as it is submitted that one question which was put to the witness was not recorded, a chance is to be given to the ld. Defence counsel for recording the same after asking the PW2 the said question as mentioned in the petition.

The petition of the accused person dated 14.09.22 is allowed with the above observation.

To date for evidence.

Dictated and Corrected by me

Addl. Sessions Judge
1st Court, Purulia.

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