

Sessions Case No. 407 of 2013
Sessions Trial No. 16 of 2014

Order no. 25
11-08-2015

All the three accused persons on bail are present by filing haziras. The Learned P.P-in-charge as well as Learned Counsel for accused persons are present. Today has been fixed for further evidence of witnesses. No witness is present. Prosecution files a petition under Section 173 (8) of Cr.P.C for further investigation of the case on the grounds stated therein and prays for adjournment for evidence. Copy served. Objection raised.

Heard Learned Counsels for both sides for petition under section 173(8) Cr.P.C. . Considered. Case is adjourned today.

Fix **12.08.2015** for appearance and order. Prosecution to submit the case dairy.

(Dictated & Corrected)

Addl. Sessions Judge
3rd Court, Purulia

Addl. Sessions Judge,
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All the three accused persons on bail are present by filing haziras. The Learned P.P-in-charge as well as Learned Counsel for accused persons are present.

Today has been fixed for passing order on the petition under Section 173 (8) of Cr.P.C. for further investigation of the case on the grounds stated therein. Copy has been served and objection has been raised.

It has been submitted by the Learned P.P-in-charge that in this case Arati Kuiry who is widow of the deceased has been examined and during her examination in her oral evidence, she has clearly stated about involvement of Bir Singh Mahato, Joy Singh Mahato, Chandi Mahato and Gopal Mahato to have cause the murder of her husband.

Prosecution has also stated in the petition that during examination under Section 164 of Cr.P.C, this witness has categorically stated that her husband has told that Bir Singh Mahato, Joy Singh Mahato, Chandi Mahato and Gopal Mahato, all of Saridih village threatened him to murder. So to bring out real truth, further investigation of the case by an expert I.O. is necessary.

On the other hand it has been submitted by the Learned Counsel for accused persons that when names of other persons had came out during evidence as accused persons then those persons may be impleaded as accused under Section 319 of Cr.P.C. If further investigation of the case is allowed then his clients would suffer more.

This court has considered submissions of both side ld. counsels and has perused the juridical case record as well as Case diary of this case. It appears when inquest of deceased Uma Shankar Kuiry has been done by I.O on 02-12-2001 then I.O has found apparent injuries on back as well as on front side of head of deceased by sharp cutting and blunt weapons. There was allegation of murder.

Further first I.O., S.I. Ramesh Hazra has also taken photographs of deceased which shows such injury over the body of deceased. From the case diary it also appears I.O. Ramesh Hazra proceeded with investigation and during his investigation he has found names of several accused persons who were involved in the incident. Even from the statement of this witness Arati Kuiry involvement of these persons have came out along with statements of other witnesses also.

It appears thereafter investigation was taken by Sk. Farzand Ali who happens to be C.I of Balarampur P.S. at relevant time and his investigation shows almost entire investigations done by previous I.O. has become fruitless and this 2nd I.O has found a new story showing Uma Shankar Kuiry consumed poison and died.

From the viscera report it appears no poison has been deducted in viscera of deceased Uma Shankar Kuiry. The investigation done by Sk. Farzand Ali shows a new investigation.

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Thereafter when last I.O of the case has submitted charge sheet then he has shown these four alleged accused persons to be charge sheet witnesses no. 19, 20, 21 and 22 for the reasons best known to him.

If entire C.D. is considered then it appears that investigation into this case in respect of these four alleged accused persons have not been done in proper way to bring out the real truth of the incident to show before the Court and adjudicate the dispute.

Considering the materials in C.D. as well as evidence of witness Arati Kuiry and others, this Court is of the view that mere adding of these four persons namely, Bir Singh Mahato, Joy Singh Mahato, Chandi Mahato and Gopal Mahato, all of Saridih village in the category of accused persons would not be sufficient, rather actual truth could be brought by further investigation by an expert I.O.

Hence, it is ordered,

That petition filed by prosecution under section 173 (8) of the Cr.P.C. is allowed. The Superintendent of Police, Purulia is hereby requested to cause further investigation of this case by an expert I.O. if available from the wing of C.I.D. of the District to bring out real truth for allegedly involvement of these four persons namely, Bir Singh Mahato, Joy Singh Mahato, Chandi Mahato and Gopal Mahato, of Village-Saridih, P.S. Baghmundi, Dist. Purulia and contemplated in C.D. and chargesheet. Prosecution is directed to hand over the case diary if required by the Superintendent of Police, Purulia in this respect.

Further investigation report should be submitted preferably by next date.

Till date further proceeding of this case is stayed.

To **08.10.2015** for appearance and report.

Let a copy of this order be sent to the Superintendent of Police, Purulia for his information and necessary action.

(Dictated)

Sd/-
(K.P.Shah)
Addl. Sessions Judge
3rd Court, Purulia

Sd/-
(K.P.Shah)
Addl. Sessions Judge,
3rd Court, Purulia

Memo. No. _____ADJ(3) /2015

Dated _____, 2015

Copy forwarded to the Superintendent of Police, Purulia for his information and necessary action.

Ref :- Baghmundi P.S.Case No. 46 of 2001 dated 02-12-2001, G.R.Case no. 849 of 2001

Addl. Sessions Judge
3rd Court, Purulia