



CNR No: WBSP01- -015438-2014

Present: Subhra Som Ghosal

J.O Code: WB00984

ST case No: 02 (07) of 2014

Order No. 49, dated: 05-03-2024.

The sole accused person on court bail, is present by filing hazira.

As stipulated by the previous order today is fixed for further evidence on behalf of the prosecution.

No witness is present when the case record is taken up for recording of evidence. The accused person submitted that the witness is on the way will appear.

Let the case be taken up at 12:45 PM.

Typed to the dictation directly;

corrected on the system.

Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

Order No. 50, dated: 05-03-2024, later.

It is now 12:45 PM.

On call the accused person is found to be present.

The Ld. P.P-in-Charge is also present.

It is submitted by the Ld. P.P-in-Charge that no witness has yet contacted with him and hence he cannot file any hazira to mark the presence of the witness.

At this point, one person (female) standing with the accused person introduced herself as Kabita Sardar and submitted the summon received by her.

From the conduct of the witness piqued this Court and on query by this Court the witness submitted that she has appeared with the accused person and at his behest.

The Ld. P.P-in-charge being confronted with this situation submitted that by the conduct of the witness it is clear the witness has been gained over and



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she will turn hostile. Such apprehension is not unrealistic in the facts and circumstances.

With this poser, I must hasten to articulate that a trial is nothing but the quest for the truth. In the pious process of unraveling the truth, so as to achieve the ultimate goal of dispensing justice between the parties, this Court cannot keep himself unconcerned and oblivious to the various happenings taking place on this day. It is my indelible judicial duty to remain very vigilant, cautious, fair, and impartial, and hoist the avowed object of fair trial. This Court should not simply shut own eyes and be a mute spectator, acting like a robot or a recording machine to just deliver what is fed by the parties. Definitely, this Court is required to remain totally unstirred, unaffected and unmoved amidst the storms and tribulations of various flagitious activities, but it cannot be expected of this Court that it will not deprecate or condemn such misdeeds of those culprits who are hell bent to pollute the stream of judicial process. If that is allowed to be done then it will tantamount to “re-calibrating the scales” of justice.

The Hon’ble Supreme Court as well as the Hon’ble High Court have time and again observed that attempts to pollute the course of dispensation of justice must be vigorously guarded against. It is not necessary to reproduce those copious quotes from various judgments but it is sanctified position of law that every attempt to reduce the course of trial to a mockery must be curbed with iron hands and if that is not done then it will be an act of showing feigned ignorance to the right of the victim to get Justice.

Hence necessary order is required to passed.

The witness who is in attendance today and admitted has come to the Court with the accused person and was going to depose at the behest of the accused person should not be examined on this day.

The Hon'ble High Court in ***Chakina Khatun Vs State of West Bengal & Anr. CRR 854 of 2011 decision date 12.12.2022*** has been pleased to pass specific directions and it has been directed by the Hon'ble High Court that:

“ i) Learned Trial Court is required to indicate the dates fixed for recording of evidence.



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ii) Learned Trial Judge shall inform the concerned Police Station in writing about the dates so fixed by the learned Trial Court for recording of evidence of prosecution witnesses with a direction upon the Officer-in-charge of the concerned Police Station to ensure the presence of I.O. before the Court on such dates along with witnesses.

iii) If due to some unavoidable circumstances it is not possible for the Investigating Officer to remain present before the Court, the Officer-in-charge shall depute any other competent police officer who shall ensure the presence of witnesses before the Court on the date of recording of evidence.

iv) It is the duty of the Investigating Officer to protect the witnesses and ensure their presence before the Trial Court, for taking the trial to its logical conclusion. It will help both the victim and the accused person, to have speedy justice which pertains to their right to life as well.

v) If the concerned Police Officer fails to act in terms of the direction of the Court, learned Trial Court shall be at liberty to take appropriate action to uphold the majesty of law including taking step for drawing up criminal contempt by competent Court of law. In appropriate cases such failure may be considered as an attempt of screening the offender from legal punishment.”

In the facts and circumstances of this case, the Investigating Officer is directed to stay personally present before this Court on the next date and he shall ensure that the witness appears before this Court directly and deposes before this Court without being influenced by the accused person. If due to some unavoidable circumstances it is not possible for the Investigating Officer to remain present before the Court, he should send a written intimation to that effect and in consultation with the Officer-in-charge of Jibantala police station he shall ensure compliance of this order.

In view of the conduct of the accused person, the accused person is directed to show cause as to why the bail granted to the accused person shall not be cancelled.

Let me at this stage clarify something important. It could be argued that the directions issued by this Court amounts to directly or indirectly exerting pressure on the witnesses, but the answer to this is an emphatic ‘No’. These directions are necessary and are in line of doing complete justice simply



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because justice is a concept involving the fair, moral and impartial treatment of all persons. In its most general sense, it means according individuals what they actually deserve or merit, or are in some sense entitled to. From the prospective of pragmatism, it is a name for a fair result and as it is said "Injustice anywhere is a threat to justice everywhere." Given the gravity of the offence vis-à-vis the conduct of the accused person, he cannot be allowed to thwart the course of trial by taking unfair means.

Fix 16-05-2024 for appearance of the Investigating Officer and further evidence.

The seized articles must be produced by the Investigating Officer.

Let a copy of this order sheet be sent to the Investigating Officer as well as to the O/C Jibantala police station for their information and compliance.

A copy of this order in PDF/PDFA format be uploaded in the CIS as per the mandate of Rule 186A of the Cr.R.O [since amended vide notification number 132-G dated 15-01-2015].

Typed to the dictation directly;
corrected on the system.

Sd/-Subhra Som Ghosal
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

Sd/-Subhra Som Ghosal
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.