

In the Court of Judge, Special Court & 2nd Addl. Sessions Judge, Alipore

Special ST 11(01)2023

Special Case No. 313/2022

CNR: WBSPO1-017814-2022

Ref.: Thakurpukur PS Case no: 318/2022 Dated : 27.11.2022

Present :Sudipta Bhattacharjee (JO Code - WB00794)
Judge, Special Court & 2nd A.S.J.,
Alipore, South 24-Parganas.

Order No. 31

Dt. 21-08-2024

The accused, on bail, is present by filing hazira.

Today is fixed for appearance and evidence.

At this stage a petition is filed on behalf of the accused on the ground that prosecution summoned three doctors chronologically in support of their case.

According to defence, three dates were fixed by the Court on the basis of prayer of the prosecution. The date of examination of Dr. Amlan Kusum Jana was fixed on 19-08-2024. He had submitted that Dr. Amlan Kusum Jana was the first doctor who examined the victim and without his examination, the other doctor could not be examined as because the defence will be highly prejudiced if other doctor is examined before examination of Dr. Amlan Kusum Jana, there is chance of disclosing defence and that is why the defence prayed for cross-examination of doctor chronologically starting from Dr. Amlan Kusum Jana and then the other two doctors.

Ld. Advocate for prosecution, by filing written objection, did not make any whisper as regards chronological examination of the doctors. It is settled law that it is the prosecution to produce witness according to chronological order. On the other hand, the prosecution, instead of chronological examination of the doctor, by filing objection, pointed out only the order of the Hon'ble High Court wherein the Hon'ble High Court was pleased to pass an order directing that trial court would fix a schedule of three dates and fix such schedule once in every 45 days so that the trial of this case can be taken to its logical conclusion within a reasonable period of time and no unnecessary adjournment will be granted to any of the parties.

Keeping in view of solemn order of the Hon'ble High Court, Calcutta dated 06-04-2024, communicated to this Court vide order 21 dated 25-04-2024, this Court fixed three dates for scheduled examination of witnesses. After getting the order, the Court fixed 05-06-2024, 20-06-2024 and 21-06-2024 for examination of witnesses. On 05-06-2024, one witness was examined as P.W. 5 and he was cross-examined and discharged. On 20-06-2024, two witnesses were examined as P.W. 6 and P.W. 7 and they were cross-examined in full and discharged. On 21-06-2024, no witness had turned up and the Court fixed another four dates i.e on 05-07-2024, 06-07-2024, 08-07-2024 and 09-07-2024. On 05-07-2024, the ld. Senior Advocate for defence fell ill and he left Calcutta for certain emergency medication. On the next date i.e on 06-07-2024, P.W. 8 was examined and cross-examined in full and discharged. On 08-07-2024, no witness was present. Prosecution failed to produce any witness on 09-07-2024. The Court then as per order of the Hon'ble High Court, fixed another three dates i.e 19-08-2024, 21-08-2024 and 23-08-2024 for examination of witnesses in chronological order, mentioned by the prosecution.

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Contd. order No. 31 dt. 21-08-2024

On 19-08-2024, the regular Court remained absent. On 21-08-2024, Dr. Amlan Kusum Jana who examined the victim girl at first, did not turn up. In spite of repeated queries, the prosecution did not make any satisfactory answer as to why Dr. Amlan Kusum Jana did not turn up on this day. The defence made prayer that Dr. Amlan Kusum Jana was the first doctor who examined the victim girl and he should be examined before the examination of other doctor, otherwise the defence will be highly prejudiced.

Perused the prayer.

The petition filed by defence has got merit and as such for the ends of justice, the prayer of the defence is allowed and the case is adjourned.

The prosecution, in such circumstances, is directed to produce Dr. Amlan Kusum Jana positively on 23-08-2024.

The Deputy Commissioner of Police in-charge of Thakurpukur P.S. is directed to produce Dr. Amlan Kusum Jana on 23-08-2024 positively at 10.30 a.m. before production of other witnesses.

The I.O shall remain present with Dr. Amlan Kusum Jana on 23-08-2024 positively at 10.30 a.m.

Let a copy of this order be sent to the Deputy Commissioner of Police in-charge of Thakurpukur P.S. Let another copy of order be sent to the I.O. of this case.

D/c by me.

Sd/-

Judge, Special Court &
2nd A.S.J., Alipore.

Sd/-

Judge, Special Court &
2nd A.S.J., Alipore.