

Special Trial No. 05 (09) of 2023
(CIS- 05/2023)

Present: Sri Anirban Das (WB00691)
1st Addl. Sessions Judge, Sealdah

Order No. 41 Dated: 29.01.2026

The accused Sadia Aziz and Noain Ghani, Suja Nuser Ghani and Sadia Afsa are produced from JC.

The accused Amina Parveen, who is on bail, is present.

Ld. Advocates for all the accused persons are present.

Ld. Special PP is present.

The PW-10 SI Rupali Satra is cross examined in part by the Ld. Advocates for the accused Sadia Aziz.

After putting a series of question the Ld. Counsel for the said accused felt unwell and as such, further cross examination is deferred.

In the instant case the Hon'ble Court has been pleased to fix a specific calender and this court was directed to conclude the PW by 31.01.2026.

It is fact that in compliance with the direction of the Hon'le Court the prosecution had closed the evidence of PW on 27.01.2026 and it is also fact that since that date the Ld. Advocates started to cross examine the witness.

It was submitted by the Ld. Counsel for the accused Suja Nuser Ghani that due to his pre engagement in another case outside Kolkata he will not be available till 03.02.2026 and accordingly, prayer was made to fix a day to day schedule from 05.02.2026.

Considering all aspects and keeping in mind that the prosecution had completed the evidence within 31.01.2026, I think that if an opportunity be not given to the defence, the accused persons will be highly prejudiced.

On discussion with the Ld. Counsels for the accused persons and also on perusal of the diary of this court the following schedule is prepared for cross examination of the PW-10.

Fix **05.02.2026, 09.02.2026 and 10.02.2026** for further cross examination of PW-10.

The petition filed on behalf of the accused Suja Nuser Ghani is taken up for hearing.

It was submitted by the Ld. Counsel for the accused that the IO should not be permitted to depose on perusal of the CD.

It was the submission that if the IO will say anything on perusal of the CD the accused must also get the right to peruse the same.

In this respect, the provision of section 145/ 161 of Evidence Act and provision of section 172 (3) Cr.PC was highlighted.

The submission of the Ld. Counsel for the accused persons was strongly opposed by the Ld. Special PP and the Ld. Counsel for the victim.

The decision of the Hon'ble Apex Court as reported in AIR 2000 SC 185 (State of Karnataka) versus K. Yarappa Reddy) and the decision of Hon'ble Madras High Court as passed in CRL. OP no. 26744 of 2018 (Hazi Mahammed Vs State) are placed before me.

On behalf of the accused persons the decision of the Hon'ble Apex Court as passed in Criminal Appeal No. 684 of 2012 (Sailesh Kumar Vs State of UP) is also placed.

I have perused the said decisions and all the said decisions discussed about the provision of section 172 Cr.PC and section 145/ 161 of Evidence Act.

In this case this PW-10 is the IO and this CD contains huge materials.

It is not possible for a human being to recollect every material in the CD from the memory.

It is fact that if the IO would depose each and every aspect from her memory, that would give the court a scope to consider the evidence with suspicion.

Therefore, I do not find anything wrong when the IO had deposed on perusal of the CD.

In this aspect I also want to refer another decision of Hon'ble Apex Court as reported in (2017) 7 SCC 668 (Balakram Vs State of Utarakhand).

In my view, for such evidence of the IO on perusal of the CD the accused persons were not prejudiced in any manner.

Under the circumstances, I do not find any reason to consider the petition filed in this respect by the accused Suja Nuser Ghani.

Let the petition be kept with the record and it can not be considered at the time of final disposal of the instant case.

To date.

Dictd & Corttd by me

1st A.S.J., Sealdah

(Anirban Das) WB0691
Addl. Sessions Judge,
1st Court, Sealdah