

ST 03 (04) 2018

Order no. 38 dated 12.03.2024

Today is fixed for evidence.

Out of 6 accused persons on court bail, 3 accused persons are present by filing hazira and 3 accused persons are absent by filing petition u/s 317 of Cr.P.C.

Ld. PP in charge is present. Heard. Prayer U/S- 317 CrP.C is allowed.

Today no witness is present.

Ld. P.P.-in-charge submits that summon was sent to CS witnesses who are Doctors, to Swastha Bhavan, Salt Lake but no S/R is received nor any witness has turned up today.

I/O of this case S.I. Anup Kumar Majumdar, presently attached to DEB Sunderban Police District, is present before this Court today to keep the witness present in the case pending for hearing, in compliance with order passed by this Court on 08-05-2023 following direction of the Hon'ble Supreme Court passed in judgement dated 28-11-2001 in Shailendra Kumar -Vs- State of Bihar and others.

Regarding service of summon upon the CSW/ Doctors and appearance of the said witnesses the I/O submits that he had no knowledge about that service of summons whereas, order no-36 dated 02-12-2023 reflects that on that very date I/O was present before this Court and he was directed to ensure appearance of the CSW/Doctors as witness in this case today.

The I/O is further asked as to why other contact details of CSW/Doctors such as their mobile number, e-mail i/d and permanent residential address are not mentioned in the C.S. He replied that he only submitted CS, seemingly that without going through the C.D. he only submitted charge-sheet like simple paper work without diligently entering into the matter.

When the I/O is asked to collect present address of the doctors (CSW) and to cause service of summons upon them, he replied in Bengali " Thana theke beroteyi pari na, abar service" thus he expressed his unwillingness to cause service of summons and to keep said witnesses present before the Court as per the direction of the Hon'ble Supreme Court followed by order of this Court.

This is a serious fault on the part of the I.O of this case namely, S.I. Anup Kumar Majumdar, coupled with willful avoidance of complying with the above orders on the plea of police administrative issues which is not at all tenable.

Any direction passed by the Hon'ble Supreme Court is actually a direction meant for and / or enforceably binds and Police authorities under article 141 read with article 144 of the Indian Constitution.

Despite the said specific direction of the Apex Court unfortunately, this Court had to reiterate it vide order no-33 dated 08-05-2023 for refreshing memory of Police Authority by sending copy of the order to the Superintendent of Police, Sunderban Police District and after giving that reminder I/O appeared in this case and not before that.

Perhaps, the police authority is in some misconception and carrying that wrong impression in practice that their duty is over, in respect of a case, immediate after CS is filed and such impression is so embedded in the mind that they are unwilling to even comply with such direction of the Hon'ble Supreme Court or of any other Court.

In view of the above, the Superintendent of Police, Sunderban Police District is directed to explain such unwarranted conduct of the said I/O S.I. Anup Kumar Majumdar and about the whole situation and also to submit report on inquiring into the matter before this Court by 14-03-2024 at 10:30 A.M.

Inform.

Issue summon to CSW.

To 14.03.2024 for compliance.

To 10.05.2024 for evidence

