

PA Case No.04 of 2023
JO CODE No.WB01460
CNR No. WBUD01-000962-2023

Order No.05

21.01.2025

Today is fixed for appearance, hearing the petition u/s 231(2), Cr.PC and order.

Accused person namely, GolamMurtuja on court bail is present by filing hazira along with his Ld. Advocate.

Ld. PP in charge is present.

The petition filed u/s 231(2) of Cr.PC is taken up for hearing.

Heard both sides.

Perused the case record along with the charge-sheet including statements of the witnesses recorded u/s 161 of Cr.PC.

It is submitted by the Ld. Advocate for the accused person that cross-examination of prosecution witnesses are required to be deferred for the interest of justice considering proximity and the residence of the witnesses. It is also submitted that if cross-examination is not deferred for CSWs 1 to 6, the accused person shall not be able to present his defence properly. Ld. Advocate prays to allow the prayer by deferring cross-examination of the CSWs mentioned above considering the statements of the CSWs under Section 161 Cr.P.C and their place of residence.

Ld. P.P. in-charge leaves the matter to the discretion of the Court.

Sections 231(2) and 309 CrPC conjointly stand for consideration on the plea of deferring cross examination of prosecution witnesses.

In the light of the decision of the Hon'ble Supreme Court passed in Criminal Appeal No. 1321 of 2018 and reported in AIR 2019 SC 721 and on conjoint reading of sections 309 and 231 as a whole it appears to be true that the expression "***permit the cross-examination of any witness to be deferred***" under section 231(2) of Cr.P.C. does not indicate that the legislature and the Parliament had ever intention to permit deferring of wholesale cross-examination of prosecution witnesses.

In the circumstances, considering the materials on record and 161 statements of the CSW 1 qua PW1 and CSW 2 to CSW 6, their residential addresses together with the relation of the witnesses and the subject matters regarding which the depositions are supposed to be given by them, this court is of the view that the prayer for deferral of cross-examination may be allowed in part.

Hence, prayer made under Section 231(2) CrPC is considered and allowed in part.

Accordingly, cross- examination of PW1 including CSW 2, CSW4 and CSW 6 is permitted to be deferred until examination of these witnesses.

Fix 09.09.2025 & 10.09.2025 for examination of CSWs 2, 4 and 6.

To 11.09.2025, 12.09.2025 & 15.09.2025 for cross-examination of PW1 along with CSWs 2, 4 and 6.

Prosecution is directed to file written up process for issuance of summons upon the witnesses for evidence and in case of hardship or any difficulty through VC and to produce the alamats of the case on the dates fixed as per above schedule positively.

D/C by me,

Judge

ASJ,1st Court,
Raiganj, U/Dinajpur.