

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. \_\_\_\_\_ OF 2024  
(Arising out of SLP(Cr1.) No. 3266 of 2024)

THE STATE OF WEST BENGAL

Appellant(s)

VERSUS

ISLAM SK. @ SK. ISLAM & ANR.

Respondent(s)

O R D E R

1. Leave granted.

2. The appellant-State is aggrieved with the direction issued by the High Court of Calcutta thereby directing the jurisdictional Commissioner of Police to personally remain present in Court.

3. This Court, in the case of State of Uttar Pradesh Vs. Manoj Kumar Sharma reported in (2021)

7 SCC 806, has observed thus:

17. A practice has developed in certain High Courts to call officers at the drop of a hat and to exert direct or indirect pressure. The line of separation separation of powers between Judiciary and Executive is sought to be crossed by summoning the officers and in a way pressurizing them to pass an order as per the whims and fancies of the court.

18. The public officers of the Executive are also performing their duties as the third limbs of the governance. The actions or decisions by the officers are not to benefit

them, but as a custodian of public funds and in the interest of administration, some decisions are bound to be taken. It is always open to the High Court to set aside the decision which does not meet the test of judicial review, but summoning officers frequently is not appreciable at all. The same is liable to be condemned in the strongest words.

X---X-----X-----X

21. Thus, we feel, it is time to reiterate that public officers should not be called to court unnecessarily. The dignity and majesty of the court is not enhanced when an officer is called to court. Respect to the court has to be commanded and not demanded and the same is not enhanced by calling the public officers. The presence of public officer comes at the cost of other official engagement demanding their attention. Sometimes, the officers even have to travel long distance. Therefore, summoning of the officer is against the public interest as many important tasks entrusted to him get delayed, creating extra burden on the officer or delaying the decisions awaiting his opinion. The court proceedings also take time, as there is no mechanism of fixed time hearing in courts as of now. The courts have the power of pen which is more effective than the presence of an officer in court. If any particular issue arises for consideration before the court and the advocate representing the State is not able to answer, it is advised to write such doubt in the order and give time to the State or its officers to respond."

4. Pursuant to these observations, Standard Operating Procedure (SOP) on the issue of personal appearance of Government Officers in Court proceedings have been laid down in the case State

of Uttar Pradesh & Ors. Vs. Association of Retired Supreme Court and High Court Judges at Allahabad & Ors. reported in (2024) SCC Online SC 14.

5. In the SOP, it is specifically provided that in exceptional cases, if the Court finds that the presence of Government Officer is necessary, then at the first instance, such appearance is permitted through video conferencing.

6. It has been further laid down that the Court should also record its reasons as to why the personal presence of the Government Officer in the Court is necessary.

7. In the present case, if the learned Judges of the Division Bench found it necessary to direct the presence of the jurisdictional Commissioner of Police, it should have been first through video-conferencing.

8. We further find that the reasons recorded by the High Court for directing the personal presence of the jurisdictional Commissioner of Police cannot be said to be exceptional or rare.

9. In that view of the matter, the part of order which direct the personal presence of the

jurisdictional Superintendent of Police is quashed and set aside.

10. The appeals are allowed in part in the above terms.

11. Pending applications, if any, stand disposed of.

.....J  
(B.R. GAVAI)

.....J  
(SANDEEP MEHTA)

New Delhi  
April 23, 2024

ITEM NO.52

COURT NO.3

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 3266/2024

(Arising out of impugned final judgment and order dated 26-02-2024 in CRM(A) No. 5681/2023 passed by the High Court At Calcutta)

THE STATE OF WEST BENGAL

Petitioner(s)

VERSUS

ISLAM SK. @ SK. ISLAM &amp; ANR.

Respondent(s)

Date : 23-04-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s)

Mr. Biswajit Deb, Sr. Adv.  
Mr. Anando Mukherjee, AOR  
Mr. Shwetank Singh, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

1. Leave granted.
2. The appeal is partly allowed in terms of the signed order.
3. Pending application(s), if any, stand disposed of.

(DEEPAK SINGH)  
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)  
COURT MASTER (NSH)

[Signed order is placed on the file]