

HIGH COURT OF TRIPURA
AGARTALA

CRL. PETN. NO. 35 OF 2025

Joydeep Roy Barman, son of Samir Ranjan Barman, residing at
38, Akhaura Road, Agartala, West Tripura, Pin-799001.

... Petitioner

Vrs.

1. The State of Tripura, represented by Secretary,
Department of Home, Government of Tripura,
New Capital Complex, West Tripura, Pin-799006.

**2. [As per Hon'ble Court's order dated 25.08.2025 the name of respondent
no.2 has been deleted from the cause title.]**

3. Kamal Kumar Kothari, son of Late Jhanwarlal Kothari,
Resident of 10, Canning Street, 3rd Floor, Police Station-Hare Street,
Kolkata-700001, West Bengal.

4. Sunita Kothari, w/o Kamal Kumar Kothari, resident of 10, Canning Street,
3rd Floor, Police Station-Hare Street, Kolkata-700001, West Bengal.

5. Dharmendra Kothari, son of late Jhanwarlal Kothari,
Resident of 18, Deshapriya Park Road, Ground Floor +1st Floor,
Kolkata-700026, West Bengal.

6. Dipak Rudra, son of Padimini Bhushan Rudra, residing at
CL-129, Sector-II, Salt Lake City, Kolkata-700091,
West Bengal.

7. Subir Chakraborty, son of late Hemchandra Chakraborty, resident of
P-116A, Sector EA, Metropolitan Housing Cooperative Society Limited,
Kolkata-700105, South 24 Parganas, near SBI Chingrighata Branch,
P.S. Tiljala, West Bengal.

... Respondents.

BEFORE
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

For the petitioner(s) : Mr. Apratim Bhattacharjee, Advocate.
Ms. Mampi Chakraborty, Advocate.

For the Respondent(s) : Mr. Raju Datta, P.P.,
Ms. Ankita Pal, Advocate.
Mr. Sayantan Talapatra, Advocate.
Mr. Atanu Chakraborty, Advocate.

Date of hearing : 08.09.2025
 Date of delivery of Order : 23.09.2025

Whether fit for reporting :

YES	NO
	✓

JUDGMENT AND ORDER

The petitioner has resorted to the provision of Section 482 of the Code of Criminal Procedure [for short, 'Cr.P.C.'], for a direction for expeditious disposal of a case bearing No. PRC(WP) 239 of 2010, pending in the Court of learned Chief Judicial Magistrate, West Tripura, Agartala.

2. The petitioner as informant, lodged one FIR against one Vivekananda Modak and others to the West Agartala P.S. in the year 2010, which was registered as West Agartala P.S. Case No.102/2010, under Sections 420/477A/109 of the Indian Penal Code [for short, 'IPC'].

3. The police authority investigated the case and ultimately laid the charge-sheet on 26.06.2015, under Sections 419/120(B)/406/420 &109 of IPC against accused Vivekananda Modak and the present private respondents. Charges in this case were framed on 11.06.2018 by Ld. Trial Court against five accused persons except for Vivekananda Modak as he was absconding and a warrant was pending against him. In the charge-sheet, the investigating officer cited a total of 32 nos. of witnesses and according to the petitioner, till date only 8 witnesses have been examined.

4. On 13.02.2019, one of the accused persons, namely, Subir Chakraborty [the respondent no.7 herein], submitted an application under sections 306/307 of Cr.P.C. in the Trial Court praying for allowing him to make statements declaring him as witness of the case and to pardon/exempt

him from this case. The said petition was filed when learned Trial Court was in the process of recording evidence of prosecution witnesses.

5. When the said petition was pending for disposal for a long period, the present petitioner filed Criminal Petition No. 37 of 2022 [titled as ***Sri Joydeep Roy Barman Vrs. the State of Tripura & Ors.***] before this Court for expeditious hearing of the case. A Coordinate Bench of this court disposed of said petition on 01.08.2022, *inter alia*, in the following terms:

“When the case was listed on 29.07.2022 before this court, this court directed the Registrar Judicial to get instruction from the concerned court with regard to the status of the case. Accordingly, a report to the said direction has been received by this registry which has been placed on record as Flag-A.

After perusing the report, this court is of the view that there is nothing wrong in causing delay. The period of Covid-19 due for which the matter could not be dealt with expeditiously, according to the court below, has also been considered by this court.

In view of the above, this criminal petition is disposed of directing the court below to treat the matter on priority basis and decide the matter as expeditiously as possible.”

6. It is now again grieved by the petitioner that despite said specific order passed by this Court, the trial is being dragged.

7. This Court has heard both sides and also perused the record of said PRC case no. 239 of 2010. From the order dated 18.07.2023, passed by learned Chief Judicial Magistrate, West Tripura, Agartala, it appears that when the petition under Section 306 Cr.P.C. of the respondent-accused persons was taken up for hearing on that day, learned counsel of both sides submitted that the Court might proceed as per law and the statements of accused Subir Chakraborty might be recorded under Section 306 Cr.P.C. In that context, the Court further observed that it should have a clear idea about the case record and the contents of the charge-sheet before proceeding further. On that day, only accused Subir Chakraborty was present and other accused persons were

absent. In fact, on the previous date also learned Trial Court observed that it was in the need to go through the relevant laws regarding tendering of pardon before deciding the said petition. Anyway, on 18.07.2023, the Court adjourned the matter till 12.09.2023 for order and recording of statements of said Subir Chakraborty.

8. On 12.09.2023, none of the accused persons (including said Subir Chakraborty) was present. Again, the Court adjourned the matter till 11.10.2023 for the same purpose. On that date, said Subir Chakraborty with his Ld. Counsel was present but the matter was adjourned by the same presiding officer with the observations that the Court required further time to peruse the case record and that the statements of accused person, namely, Subir Chakraborty would be recorded as per law. On the next date, i.e. on 08.12.2023, all the accused persons were absent and the Court fixed the date on 10.01.2024 for appearance and recording of statements as well as E.R (execution report) in respect of the proclamation issued against accused Vivekananda Modak.

9. On 10.01.2024, accused Subir Chakraborty was present with his learned counsel. On that date, learned Trial Court observed that in the event of recording of statements of accused Subir Chakraborty, under Section 306 of Cr.P.C., it has to be committed to the Court of learned Sessions Judge and since one of the accused persons (Vivekananda Modak) was not produced before the Court, the case could not be committed and therefore, the matter was again adjourned till 28.03.2024 for appearance, execution return (E.R.), report and recording of statement. It was also observed that at that point the Court had to see the relevant laws.

10. On the next date, i.e. 28.03.2024 said Subir Chakraborty was present along with his learned counsel. But, the learned Trial Court observed that one of the accused persons preferred a revision petition against the order dated 10.01.2024 on some other issues and not regarding the recording of statement of Subir Chakraborty. Then, again the Court adjourned the matter on the ground that the matter was sub-judice before higher court, though there was no indication in the record that the Sessions Court had passed any order staying further proceedings of said case.

11. Learned Trial Court again fixed the matter on 30.04.2024 for order. On that date, accused Subir Chakraborty was absent and the case was adjourned on the ground of pendency of said revision petition. Thereafter, on several occasions, the case was adjourned on similar ground. Only in the order dated 06.11.2024, it was noted that the record of the case was called for by the learned Sessions Judge, West Tripura and it was returned to learned Chief Judicial Magistrate on 06.03.2025. Learned Sessions Judge in the connected revision petition gave liberty to the accused-petitioners of that revision petition to approach the learned Trial Court praying for exemption of their personal appearance.

12. Thereafter, the *de-facto* complainant i.e. the present petitioner filed a petition before the learned Chief Judicial Magistrate, West Tripura, Agartala on 13.03.2025 for proponing the hearing from the date 01.05.2025 to any other early date and the learned Trial Court allowed the said petition and fixed the next date on 05.04.2025. The matter was again re-fixed on

01.05.2025 as all the accused persons might not have the knowledge of such prepronement of date. On that day, all the accused persons were absent. The matter was again adjourned till 31.05.2025 for hearing and order and the Court asked for physical appearance of the accused persons in the court on the next date. On 31.05.2025, accused Subir Chakraborty was present but the other four accused persons were absent. However, their petitions filed under Section 317 Cr.P.C. were allowed but, despite the presence of learned Advocates of the accused persons, the matter was adjourned. Thereafter, on two other subsequent dates fixed on 05.07.2025 and 25.07.2025 also, the accused persons were absent and they were allowed to be represented by their Advocates but, still no hearing was done and the matter was adjourned. Meanwhile on 15.07.2025, the instant petition was filed by the petitioner in this Court.

13. Learned counsel, Mr. Apratim Bhattacharjee appearing for the petitioner through virtual mode, submits that it is a very old pending case and despite directions given by this Court for hearing of the matter on priority basis, learned Chief Judicial Magistrate is again and again adjourning the matter without any effective order. He prays for a direction from this Court for early disposal of the case.

14. Learned P.P. submits that an order may be passed giving a direction to the learned Trial Court to dispose of the matter in a time-bound manner. Learned counsel, Mr. A. Chakraborty appearing for accused Subir Chakraborty through virtual mode, submits that necessary order in accordance with law may be passed.

15. This Court has considered the submissions of learned counsel of both sides and also the chain of facts and circumstances as indicated above. As

it appears, learned Trial Court despite directions given by this Court in Criminal Petition No. 37 of 2022 for disposal of the matter on priority basis, did not prioritize the case for early disposal, rather adjourned the matter on several occasions without sufficient cause. When the learned Magistrate has allowed the petition under Section 317 Cr.P.C. by allowing the absentee accused persons to be represented by their learned Advocates, there cannot be any reason to adjourn the matter on the ground of their absence unless personal appearances of accused persons were essential. Learned Trial Court should be mindful of the fact that the case is of the year 2010 and therefore, special attention is required to be given for disposal of the matter on priority basis.

16. In view of above, learned Chief Judicial Magistrate, West Tripura, Agartala is directed to dispose of the matter relating to the petition of accused Subir Chakraborty strictly in terms of Section 306, Cr.P.C., preferably within one month from the date of reopening of the Court i.e. by November, 2025 and proceed further with the case in accordance with law without any inordinate delay. It is also directed that short dates will be fixed in this case by the learned Trial Court dealing with the case and granting of adjournments without sufficient reason shall be avoided. Examination of witnesses should be made on day to day basis.

17. With such observations and directions, the criminal petition is disposed of.

18. Send down the record of learned Trial Court with a copy of this order.

(S. DATTA PURKAYASTHA, J)