

**THE HIGH COURT OF TRIPURA
AGARTALA**

CRL REV. P. No.64 of 2015

The State of Tripura,
Represented by the Public
Prosecutor, High Court of Tripura,
Agartala.

.....Petitioner.

Versus

1. Kajal Roy,
S/O. Ramesh Roy,
R/O. Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

2. Abhoy Bhusan,
S/O.- Lt. Nalini Bhusan,
R/O- Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

3. Uttam Saha,
S/O. Sri Suresh Saha,
R/O. West Laxmi Bill,
P.S.-Bishalgarh,
Dist- Sepahijala.

4. Sukhendu Das,
S/O. Sri Suresh Das,
R/O- West Laxmi Bill,
P.S- Bishalgarh,
Dist- Sepahijala.

5. Babul Das,
S/O. Sri Ramani Mohan Das,
R/O- West Laxmi Bill,
P.S. Bishalgarh,
Dist- Sepahijala.

6.Chinmoy Ghosh,
S/O. Sri Rasik Ghosh,
R/O- Office Tilla,
P.S. Bishalgarh.

7. Hiranmoy Ghosh,
S/O. Sri Rasik Ghosh,
R/O- Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

8. Arun Kr. Saha,
S/O. Sri Ramani Mohan Saha,
R/O- Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

9. Sajal Sarkar,
S/O. Sri Santosh Sarkar,
R/O. Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

10. Tapan Das,
S/O. Sri Jatindra Das,
R/O. Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

11. Mrinal Sengupta,
S/O. Nirod Baran Sengupta,
Of Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

12. Satya Ranjan Das,
S/O. Makhan Das
Of West Laxmi Bill,
P.S. Bishalgarh,
Dist- Sepahijala.

13. Uttam Kr. Saha,
S/O. Lt. Lalit Mohan Saha,
R/O. Office Tilla,
P.S- Bishalgarh,
Dist- Sepahijala.

14. Dudul Sengupta alias Dula,
R/O. Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

15. Pradul Sengupta,
S/O. Sri Tejendra Sengupta,
Of Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

16. Ajit Deb,
S/O. Lt. Ananta Deb of
Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

17. Sadhan Karmakar,
S/O. Sri Harendra Karmakar
Of Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

18. Bijoy Kr. Das,
S/O. Makhan Das of
West Laxmi Bill,
P.S. Bishalgarh,
Dist- Sepahijala.

19. Sashti Chakraborty,
S/O. Makhan Chakraborty,
Of Office Tilla,
P.S. Bishalgarh,
Dist- Sepahijala.

20. Ranjit Dasgupta,
C 1215 of DAR,
West Tripura,
Agartala.

21. Chan Miah alias Chanu,
S/O. Ahid Miah of
West Laxmi Bill,
P.S. Bishalgarh,
Dist- Sepahijala.

.....**Respondents.**

CRL REV. P. No.65 of 2015

Sri Sasthi Chakraborty

S/O. Lt. Makhan Chakraborty

Village: Office Tilla,

P.S. Bishalgarh

Dist- Sepahijala,

Pin-799102.

..... **Petitioner.**

Versus

The State of Tripura

.....**Respondent.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

In Crl. Rev. P. No. 64 of 2015

For the petitioner	:	Mr. A. Ghosh, Public Prosecutor.
For the		
Respondents 1 to 7	:	Mr. A. Bhattacharjee, Advocate.
Respondents 8 to 13,		
15 & 18	:	Mr. S. Chakraborty, Advocate
Respondent No. 19	:	Mr. S. Sarkar, Advocate.
Respondent No. 21	:	Mr. R Mukherjee, Advocate.

In Crl. Rev. P. No. 65 of 2015

For the petitioner	:	Mr. S. Sarkar, Advocate.
For the Respondent	:	Mr. A. Ghosh, Public Prosecutor.
Date of hearing and delivery of Judgment & Order	:	29.9.2015.
Whether fit for reporting	:	Yes/No.

JUDGMENT & ORDER (ORAL)

In Criminal Revision Petition 64 of 2015 respondents 14, 16, 17 and 20 namely, Dudul Sengupta alias Dula, Ajit Deb, Sadhan Karmakar and Ranjit Dasgupta are stated to have expired. Therefore, their names are ordered to be deleted. Even in the trial Court record the learned Sessions Judge shall ensure that their

names are not reflected in the order sheets and the prosecution against them shall stand abated.

2. Both the criminal revision petitions are being disposed of by a common judgment.

3. The facts of the case are that one Sri Parimal Saha was murdered in the year 1983. The trial commenced in the year 1986 and statements of all the witnesses had been recorded in the next 2/3 years. Unfortunately, the matter, thereafter, remained pending without the statement of any witness being recorded for more than 23 years. When the fact came the notice of this Court on the administrative side, notice of the same was taken and, thereafter, directions were given to dispose of the matter in a time bound manner. A Special Public Prosecutor was also appointed by this Court. The State challenged the order in appeal before the Apex Court. The Apex Court gave liberty to the State to appoint its own Special Public Prosecutor but the rest of the order was directed to remain in force.

4. After the trial commenced, the State filed three applications; one application to recall PW.40, A.S.I Nakuleshawar Debnath, another application to summon/recall and re-examine the Doctors PW.10, PW.20, PW.21, PW.43 and third application to recall PW.1, PW.2, PW.44, CS witness No.2 Sri Sankar Saha @ Sankarlal

Saha and one Sri Abdul Rashid who is stated to be an unlisted witness.

5. One of the accused, namely, Sri Sasthi Chakraborty has also filed an application for recalling all the witnesses on the ground that charge has been amended. In my view, only because the charge has been amended is not sufficient ground to recall all the witnesses. The petitioner will have to specify which witnesses he want to recall and shall also have to specify the reasons for recalling the witnesses. There cannot be a blanket recall of all the witnesses.

6. As far as the order of the learned trial Court is concerned, he has not gone into the merits of the case. He has dismissed the applications only on the ground that since this Court has given a time bound framework to dispose of the case it is not possible for him to recall the witnesses and entertain the petition. Merely because a time frame has been framed does not mean that the Code of Criminal Procedure (Cr.P.C.) or rules of natural justice can be totally given a go by.

7. A party, if it has a right to recall the witnesses, can apply to the Court to recall the witnesses and the trial Court must decide the application on its own merits. It is for the party concerned, whether it be the State or the accused to satisfy the trial Court that the recalling of the witness or examination of a fresh

witness is necessary and falls within the purview of Section 311 of the Code of Criminal Procedure.

8. If the Court is satisfied that the party concerned has made out sufficient reasons to recall any witness it is not precluded from doing so only because of the orders passed by this Court. As the learned trial Court has not gone into the merits of the case and has rejected the applications only on the ground that since a time frame has been framed he cannot entertain the applications, I set aside the orders of the learned trial Court and direct the learned trial Court to consider the applications on merit and in case the applications falls within the purview of Section 311 Cr.P.C then alone the learned trial Court shall allow the applications and permit any witness to be recalled or re-examined. In case the applications are allowed and the learned trial Court feels that it is necessary to pray for an extension of time in deciding the case it may send an appropriate communication to the High Court on the administrative side.

With the aforesaid observations and directions both the revision petitions are disposed of.

CHIEF JUSTICE

Satabdi