

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 930 of 2020

Asfak Khan @ Asfaqueddin Khan & Ors.

Vs.

State of West Bengal & Anr.

For the Petitioners : Mr. Subhasish Pachhal,
Mr. Rameshwar Sinha.

For the State : Mr. Sudip Ghosh,
Mr. Bitasok Banerjee.

For the OP No. 1. : Mr. Debabrata Karan,
Mr. Debopriyo Karan.

Heard on : 24.02.2021

Judgement on : 24.02.2021

Jay Sengupta, J. :

1. This is an application challenging an order dated 25.02.2020 passed by the learned Additional Sessions Judge, 2nd Court, Howrah in ST No.144(u) 2015 (New S.T. No.20 of 2016), thereby rejecting the application for recalling of witnesses under Section 311 of the Criminal Procedure Code.

2. Learned Counsel appearing on behalf of the accused/petitioners submits as follows. The case is based primarily on medical evidence. The main allegation was that the victim was kicked at her belly resulting in miscarriage. Although the evidence of the concerned doctors being PWs 7, 8, 9 and 10 were recorded, they could not be properly cross-examined on all the aspects. It is germane to mention that although the incident allegedly took place on 11.04.2013, the victim got admitted in the hospital much later, on 11.04.2013. Although the learned Trial Court allowed two other witnesses to be examined, the concerned doctors were not recalled for further cross-examination. The relevant doctors are also required to be examined on the question of USG done on the victim.
3. Learned Counsel appearing on behalf of the State opposes the application and submits as follows. As would be evident from the copies of depositions of the concerned doctors placed on record by way of supplementary affidavit, they were extensively examined and cross-examined. All possible aspects were dealt with. Therefore, there is no need for further recall of the witnesses.
4. Learned Counsel appearing on behalf of the de facto complainant/opposite party submits as follows. The concerned witnesses were extensively cross-examined on all aspects. As such, there is no need to recall them for further cross-examination. Even after a date was fixed for examination of the two

witnesses that was allowed by the impugned order, the accused remained absent on several dates. This is only a ploy to protract the trial.

5. I have heard the submissions of the learned Counsels appearing on behalf of the parties and have perused the revision petition and the supplementary affidavit.
6. After going through the depositions of the concerned doctors, it appears that there were extensive examination and cross-examination of them on all possible aspects. Even the issue of admission of the victim in a hospital at a later date and the question of USG done on the victim were all dealt with in the cross-examination/s.
7. Therefore, I do not have any hesitation to hold that the witnesses need not be recalled.
8. Moreover, the impugned order passed by the learned Trial Court is a reasoned order, which also discusses the issues raised vis-à-vis the evidence of the medical experts.
9. In view of the above, I do not find any illegality in the impugned order. Accordingly, the challenge to the impugned order is dismissed.

10. However, the learned Trial Court is requested to conclude the proceeding as expeditiously as possible without granting any unnecessary adjournment to any of the parties.
11. With these observations, the revisional application is disposed of.
12. Urgent photostat certified copy of this judgment may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)