

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 2376 of 2022

**Jayanta Sarkar
Vs.
The State of West Bengal & Anr.**

**For the petitioners : Mr. Arun Kumar Maiti, Adv.,
Mr. Rishieraj R. Mohanty, Adv.,
Ms. Diya Bain, Adv.**

Judgement on : 12.08.2022.

Bibek Chaudhuri, J.

The petitioner being the accused of Sessions Trial No. 3/2019 under Sections 493/376/417/406/323 of the Indian Penal Code has been facing trial since 2019. Charge against the accused was framed by the Trial Court on 10th January, 2019. Thereafter till date prosecution could only examine three witnesses including *de facto* complainant in part. Cross-examination of the said witnesses are deferred under the provision of Section 231 of the Code of Criminal Procedure.

This Court is surprised to note that during the period for about four years after framing of charge, Trial Court could manage to examine only three witnesses in part. The Trial Court did not take any proactive step for production of witnesses on the dates fixed by him for witness action.

It is pertinent to mention that in a case instituted under Police report, it is the duty of the prosecution to produce the witnesses. If the prosecution fails to produce the witnesses on the date of recording evidence, it is open for the Trial Court to pass an order closing witness action and to proceed with the hearing of the case to its logical conclusion. However, it appears to this Court that the Learned Trial Judge mechanically went on fixing dates after dates without any result. The Learned Trial Court should be aware of the fact that this type of mechanical action without putting any head for expeditious disposal of a criminal case is as a result viewed by this Court.

Therefore, the instant revision is disposed of directing the Trial Court to take positive step in consultation with the Learned Public Prosecutor-in-Charge to ensure production of witnesses on the next date. The Learned Trial Judge is further directed to conclude witness action by 30th November, 2022 positively.

The petitioner is at liberty to communicate the server copy of this order to the Learned Trial Court for information and compliance.

With the above order, the instant revision is **disposed of**.

(Bibek Chaudhuri, J.)