

Form J(1)

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

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

**CRR 2976 of 2022
(Via Video Conference)**

**Biswajit Ghosh @ Bishwa
Vs.
The State of West Bengal & Anr.**

For the petitioner : Mr. Biswajit Tiwari, Adv.

Heard on : 06.09.2022

Judgment On : 06.09.2022.

Bibek Chaudhuri, J.

An order dated 6th June, 2022 passed by the learned Additional Sessions Judge on 3rd Fast Track Court at Malda in Sessions Trial No.41(12) of 2018 corresponding to Sessions Case No.32 of 2018 is under challenge.

By passing the said order the learned Trial Judge rejected an application for adjournment filed on behalf of the accused and the cross-examination of P.W.4 was closed. It is recorded by the learned Trial Judge that Mr. Md. Mohibur Rahaman, learned Advocate filed Vokatnama on behalf of the accused but Mr. Tarit Ojha, Advocate

being assisted by Mr. Sudip Sikdar, Advocate cross-examined P.W.2. On 6th June, 2022 Mr. Sudip Sikdar prayed for adjournment for cross-examination of P.W.4 on the ground of absence of Mr. Tarit Ojha. The learned Trial Judge refused to grant adjournment and closed cross-examination of P.W.4.

It is submitted by the learned Advocate for the accused/petitioner that P.W.4 is the victim/injured and his cross-examination is absolutely necessary for just decision of Sessions Trial No.41(12) of 2018. Therefore, the petitioner's prayer may be allowed setting aside the order dated 6th June, 2022 and subsequent order dated 19th July, 2022.

It appears from the record that Trial of the case was initiated in the month of December, 2018. Almost 4 years have elapsed. Examination of the witnesses on behalf of the prosecution could not be concluded.

Mr. Tarit Ojha and Mr. Sudip Sikdar do not have Vokatnama to represent the accused/petitioner. In spite of such fact, the said learned Advocates prayed for adjournment. Therefore, prima facie I do not find any illegality in the order dated 6th June, 2022 and 19th July, 2022.

At the same time I am not unmindful to note that for the laches of the learned Advocates for the petitioner, the accused/petitioner should not suffer.

Therefore, the instant revision is disposed of requesting the learned Trial Judge to fix date for cross-examination of P.W.4, Sanjoy Chowdhury on a date one week after vacation, subject to payment of cost of Rs.10,000/- to be paid jointly by Mr. Tarit Ojha and Mr. Sudip Sikdar, learned Advocates to the District Legal Services Authority, Malda.

If P.W.4 is not cross-examined on the date fixed by the Trial Court one week after vacation, his evidence shall be treated as closed.

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

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.135.
M/L.**