

25.11.2022

Item No.26
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 3414 of 2022

**Arun Hari
versus
The State of West Bengal**

In Re: An Application under Section 483 of the Code of Criminal Procedure.

Mr. Amajit De,
Ms. Shakshi Rathie ... For the Petitioner.

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick ... For the State.

The present case commenced in the year 2012 being Durgapur Police Station Case No. 236 dated 19.04.2012 and with the charge-sheet being filed, the learned sessions court in the year 2015 framed charges.

Mr. De, learned advocate appearing for the petitioner submits that out of 15 witnesses so cited in the charge-sheet, till date only two witnesses could be examined by the prosecution.

Mr. Paramanick, learned advocate appearing for the State submits that the State is not responsible for the delay and on most of the dates, the accused persons were absent or there was resolution of the local Bar for which the trial could not proceed.

Without going into the systematic delay which has already occasioned in the passage of the last ten years, I direct that the learned sessions court, in seisin of the matter, would fix a schedule consisting of three dates and fix

schedule on each and every month. No unnecessary adjournment should be granted to either of the parties. No witness should be excused from appearing in court on any flimsy grounds. At the same time, I direct that if the accused is seen not cooperating in the progress of the trial and adopting dilatory tactics, in that case also the court would rethink or reconsider regarding the bail granted or impose cost upon the accused, if a witness is present and the accused is on one plea or the other seeking time before the learned trial court.

Learned public prosecutor conducting the trial should assure regarding the availability of the witnesses and thereafter schedule should be fixed by the court.

Learned trial court is reminded regarding the amendment which has been incorporated under Section 309 of the Code of Criminal Procedure wherein in proviso clause (b) of sub-section (2) of Section 309 of the Code of Criminal Procedure, it has been stated that *“the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment”*.

The learned court accordingly would insist the defence lawyer also to complete the cross-examination, in case a witness is present on a particular date.

Having regard to the fact that the case commenced almost ten years ago, I direct that any resolution of the local Bar in this particular case will not apply if a witness is present in court and the evidence would continue and no

deferment of the trial would take place because of the resolution of local Bar.

By December 2023, the evidence of the case should be over.

The Superintendent of Police, Paschim Bardhaman is directed, if required, to engage a Nodal Officer so that the witnesses are made available on the schedule/date so fixed by the learned trial court.

With the aforesaid observations, the revisional application being CRR 3414 of 2022 is disposed of.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)