

02-02-2022
Subha
Item no.31
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
(Via video-conference)

C.R.R 1382 of 2020
with
CRAN 1 of 2020(urgent hearing)
with
CRAN 3 of 2022(addition of party)

In Re: An application under Section 401 read Section 482 of the
Code of Criminal Procedure.

In the matter of : Ajijur Sk. @ Ajijur Sekh & Anr. ...Petitioners.

Mr. Arindam Jana
Mr. Soumajit Chatterjee
....for the petitioners.

Mr. Saibal Bapuli, APP
Mr. Arani Bhattacharya
....for the State.

Mr. Jayanta Narayan Chatterjee
...for the de facto complainant.

Mr. Jana, learned advocate appearing on behalf of the
petitioners emphasizes on the application under Section 231(2) of the
Code of Criminal Procedure.

Learned advocate draws the attention of this court to at least
10 witnesses whose cross-examination, he has prayed for deferring as
the foundation of the case is based on circumstantial evidence and the
public witnesses, who have been cited, are interested witnesses.

Mr. Chatterjee, learned advocate appearing on behalf of the

opposite party no. 2/de facto complainant opposes the application and submits that the whole purpose of filing such a revisional application, in course of the trial was with an ulterior motive and is only to delay the progress of the trial.

Mr. Bapuli, learned Additional Public Prosecutor appearing on behalf of the State produces the case diary.

All the learned advocates have drawn the attention of this court to Order no. 8 dated 25th February, 2020, while Mr. Jana, learned advocate appearing on behalf of the petitioners has disputed a part of the order. Mr. Chatterjee and Mr. Bapuli, learned advocates supported the order passed by the learned trial court.

Learned lawyers have drawn the attention of this court to the last stage of the impugned order wherefrom it reflects that the cross-examination of C.S.W(1), C.S.W(2) and C.S.W(12) and CSW(14) were allowed to be deferred considering them of the same family members.

So far as the cross-examination of the other witnesses, which were prayed for in the application under Section 231(2) of the Code of Criminal Procedure, the learned trial court was pleased to refuse the same.

I have considered the documents, the nature of the statements, the role of each of the witnesses and I find that the role of C.S.W(1) namely, *Shabnam Shaikh* and that of C.S.W(4) namely, *Sk Saddam* as revealed from the case diary on certain issues are common and as such the accused may be prejudiced, if the cross-examination is continuously not done for these witnesses.

Under such circumstances, I find that so far as the C.S.W(4)

is concerned, the learned court should have considered the deferment of his cross-examination also along with the rest of the witnesses.

Having regard to the same, I direct that the C.S.W(4) would also be taken into consideration by the learned trial court and his cross-examination may be deferred and be held only after the cross-examination of C.S.W(1). The order dated 25th February, 2020 is modified to the aforesaid extent only.

With the aforesaid observations, the revisional application being CRR 1382 of 2020 is disposed of.

Interim order, if any, is hereby vacated.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]