

24.01.2023

Item No.12
Ct.No.34
dc.

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

C.R.R. 612 of 2021

**Nilendu Saha
versus
The State of West Bengal & Anr.**

In Re: An Application under Sections 397 and 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Indrajeet Dasgupta,
Ms. Puspita Bhowmick,
Ms. Rima Biswas ... For the Petitioner.

Mr. Arijit Ganguly,
Ms. Manisha Sharma ... For the State.

Mr. Rajdeep Bhattacharya,
Mr. Tamal Saha ... For the Opposite Party No.2.

Report dated 20.01.2023 submitted by Mr. Arijit Ganguly, learned advocate appearing for the State be kept on record.

The report reflects that CSW-2 was present on 09.03.2021, but no evidence was recorded and according to the report the examination-in-chief of CSW-2 has not commenced.

The grievance of the present petitioner is that on 04.02.2021, he could not conduct the cross-examination of PW-1 as an accommodation was sought on his behalf before the learned court that the senior counsel conducting the case was engaged in another court. Learned Chief Metropolitan Magistrate, Calcutta was pleased to dismiss such prayer and assigned reason that Section 309 of the Code of Criminal Procedure does not entitle a litigant before a court of law to seek such an accommodation on the grounds prayed for.

More than one and a half years have passed since then and the evidence thereafter did not progress.

Having considered the fact that none of the parties would be prejudiced in case the petitioner is allowed to cross-examine the said witness, I direct the learned Chief Metropolitan Magistrate, Calcutta to grant one opportunity to the petitioner to cross-examine PW-1.

Learned advocate for the PW-1 is present as well as that of the petitioner. PW-1 is directed to be present on 10.04.2023 before the learned Chief Metropolitan Magistrate, Calcutta. The petitioner on that date will complete his cross-examination.

Needless to state that no resolution of the Bar or any impediment would stop the cross-examination to be continued on the said date.

Learned Magistrate would thereafter continue with the trial of the case in accordance with law.

With the aforesaid observations, the revisional application being CRR 612 of 2021 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.)