

Form J(1)

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

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

CRR 1177 of 2023

**Bikarna Basak
Vs.
State of West Bengal**

For the petitioner : Mr. Kalyan Chatterjee

Judgement on : 18.05.2023.

Bibek Chaudhuri, J.

An order dated 27th February, 2023 passed by the learned Additional Sessions Judge at Baruipur upon an application under Section 311 of the Code of Criminal Procedure is assailed in the instant revision. It is ascertained from the record that at the flag end of trial the Investigating Agency had filed supplementary charge-sheet with FSL report in respect of the seized weapons and other materials in connection with Sessions Trial Case No. 11(5)/2016 arising out of Sessions Case No. 14(05)/2016 under Section 302 of the Criminal Procedure Code.

I have perused the impugned order and the petition under Section 311 of the Code of Criminal Procedure filed on behalf of the accused/petitioner.

In the petition under Section 311 of the Code of Criminal Procedure the petitioner did not state the suggested questions which is a mandatory requirement of an application under Section 311 of the Code of Criminal Procedure because it is the duty of the Court to consider the evidence of the witnesses to whom the petitioner wants to cross-examine and the suggested questions to come to a finding first as to whether the said suggestion was already put to the witness and secondly whether the questions are required for just decision of this case.

While in the impugned order dated 27th February, 2023 I do not find any discussion with regard to the scope of Section 31 of the Code of Criminal Procedure, I also find that the petition under Section 311 of the Code of Criminal Procedure was not filed in proper form.

In view of such circumstances, the order dated 27th February, 2023 passed by the learned Additional Sessions Judge at Baruipur in the aforesaid case is set aside. The petitioner is at liberty to file a fresh question under Section 311 of the Code of Criminal Procedure with suggested questions for consideration of the learned Court below. The learned Court below will consider as to whether the learned defence Counsel should be allowed to ask those questions in the touchstone of Section 311 of the Code of Criminal Procedure.

Entire exercise shall be concluded within two months from the date of communication of this order.

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

(Bibek Chaudhuri, J.)

