

Form J(1)

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

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

CRR 2558 of 2022

**Jakir Gazi
Vs.
The State of West Bengal and Anr.**

Mr. Aniket Mitra
Sk. Sahajahan Ali
..for the petitioner

Ms. Baisali Basu
..for the State

Item No. 18.

Heard & Judgment on: 11.01.2023

Bibek Chaudhuri, J.

Having heard the learned advocate for the petitioner and on perusal of the instant revision this Court is of the view that the instant revision can be disposed of here and now with the assistance of the learned P.P.-in-charge. Therefore, Ms. Baisali Basu, learned P.P.-in-charge is requested to assist this Court.

The petitioner is requested to supply a copy of the application to Ms. Basu which the learned advocate has done.

Appointment of Ms. Basu be regularized by the learned Legal Remembrancer, Government of West Bengal.

The petitioner is accused in Special SC Case No.68 of 2018 under Sections 376(2)(i)(n) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

It is submitted by the learned advocate for the petitioner that trial Court examined P.W.2 on 7th May, 2022. Subsequently on 14.06.2022 P.W.1 was cross-examined in full and discharged. Thereafter the learned trial Judge fixed 18th July, 2022 for production of the accused and evidence of the rest witnesses. There are 18 witnesses from the charge sheet. The learned advocate for the petitioner has also produced the certified copy of subsequent orders. On all orders the learned Special Judge fixed only one date i.e., 05.09.2022, 14.11.2022 and 06.01.2023 for examination of remaining witnesses. It is pointed out by the learned advocate for the petitioner that only three witnesses were examined. The learned trial Judge fixed 6th January, 2023 for examination of remaining 15 witnesses. It is not possible for the learned trial Judge to examine 15 witnesses

in a day and it is also not possible for the defence counsel to cross-examine all 15 witnesses on 6th January, 2023.

The learned trial Judge does not follow the provision of the Code of Criminal Procedure regarding fixation of schedule and examination of witnesses as per the schedule.

It appears to this Court that the learned trial Judge is completely dependent upon the prosecution and without maintaining any schedule he examines the witnesses produced by the prosecution according to its schedule.

Criminal trial cannot continue in such fashion. The order dated 14th June, 2022 and all subsequent orders suffer from material irregularity. Therefore, the instant revision is disposed of directing the learned trial Judge to fix a schedule containing five days and examine at least three witnesses on each day as per serial maintained in the schedule. In such case the prosecution will not be disturbed as well as the defence will be able to prepare its defence before cross-examination of the witnesses.

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

The petitioner is at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)