

CRR 3015 of 2009

In the matter of : Atahar Sk.

Mr. Prabir Majumder
Mr. Snehangshu Majumder ... for the petitioner

Mr. B.K. Ray
Ms. Sima Biswas ... for the State

Heard Mr. Majumder, learned counsel appearing on behalf of the petitioner. The matter is appearing after almost fourteen years.

On 09.9.2009 the original record being SC 124(12)/04 was called for. Since no order of stay was there, it can be presumed that learned Trial Court in the meantime has proceeded with the case.

Mr. Majumder submitted that in course of trial Echha Bibi, Giri Bibi and Nemai Das were examined by the prosecution as P.Ws. 9, 10 and 11. But inadvertently learned Presiding Judge could not put his signature. When the matter was brought to the notice of the learned Trial Court, direction was given for examination of those three witnesses afresh which is the order impugned. According to Mr. Majumder, learned Trial Court had no reason to pass the impugned order.

I have perused the lower court record and find that Echha Bibi and Giri Bibi were examined on 28.02.2006 and they put their L.T.I. on the deposition sheet while Nemai Das was examined on 01.3.2006 and the deposition sheet of P.W. 11 contains his

signature. The deposition sheets of P.Ws. 9, 10 and 11 further demonstrate that learned Additional Sessions Judge, Fast Track Court No. 3, Krishnagar, Nadia for reason best known to him or inadvertently did not put his signature. Once the evidence of witness is on record in a criminal trial, the learned Trial Court can call for witnesses for the purpose of re-examination or further examination by invoking the provision of Section 311 of the Cr.P.C. The order impugned does not indicate that learned Trial Court invoked the provision of Section 311 of Cr.P.C. On the contrary, it appears that the learned Trial Court directed the witnesses to appear once again and adduce evidence as he failed to discharge his duty properly. For laches on the part of the Court, there is no reason to make the witnesses suffer by having them to travel all the way from their residence to adduce evidence.

Learned Trial Court is directed to put his dated signature on the deposition sheet of P.Ws. 9, 10 and 11 and proceed with the trial as expeditiously as possible.

With this observation, the criminal revision is disposed of along with application, if any.

Let a copy of the order along with the lower court record be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)