

Form J(1)

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

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

CRR 3682 of 2022

***Nurul Islam @ Nur
Vs.
The State of West Bengal & Anr.***

**For the petitioner : Mr. Kusal Kumar Mukherjee, Adv.
Mr. Diptangshu Basu, Adv.**

**For the State : Mr. Ranabir Roy Chowdhury, Adv.
Mr. Bibaswan Bhattacharya, Adv.**

Heard on : 24.01.2023

Judgment On : 24.01.2023.

Bibek Chaudhuri, J.

The petitioner is the accused in Sessions Triable Case under Section 302 of the Indian Penal Code. The case is at the verge of conclusion. Only the Autopsy Surgeon and the Investigating Officer are left to be examined. At this stage, the petitioner filed an application under Section 311 of the Code of Criminal Procedure praying for recalling of prosecution witnesses Nos.4,10,12 and 16 for further cross-examination.

The learned Trial Judge rightly rejected the said application on the ground that the application was not appended with questionnaire to be asked to the above-named witnesses.

I do not find any illegality or material irregularity in the impugned order. Accordingly, the revisional application is dismissed.

However, the petitioner is at liberty to file fresh application with questionnaire appended thereon and the learned Trial Judge shall consider such application without being influenced in any way by the instant order. It is open for the learned Trial Judge to decide independently as to whether such questions are required to be asked to witnesses Nos.4,10,12 and 16 for just decision of the case. On his independent appraisal of the entire facts and circumstances, he is at liberty to dispose of such application within three weeks from the date of communication of this order. If no application is filed within the time framed, the learned Trial Judge shall not extend the time on the prayer of the defence.

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

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.25.
D/L.**