

05.12.2023
Item No.319
Ct.No.34
dc.

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

C.R.R. 4530 of 2023

In the matter of : **Rekha Murarka**

... Petitioner.

Mr. Ayan Bhattacharjee,
Mr. Indrajit Adhikari,
Ms. Ritu Das,
Mr. Suman Majumdar

... For the Petitioner.

Mr. Sanjib Kumar Dan

... For the State.

Learned advocate appearing for the petitioner is directed to serve a copy of this revisional application upon Mr. Sanjib Kumar Dan, learned advocate, who ordinarily appears for the State. His appointment may be regularised by the concerned authorities.

Mr. Bhattacharjee, learned advocate for the petitioner draws the attention of the Court to the grievance of the petitioner as also the fact that the date for delivery of judgement is fixed on 06.12.2023 before the learned trial court. The point which has been tried to be emphasised before this Court is that the victim intends to engage an advocate who would orally argue the case and will not restrict herself to file written notes of argument. To that effect, the learned advocate has relied upon a judgement of the Hon'ble Supreme Court in Jagjeet Singh and others Vs. Ashish Mishra alias Monu and others reported in (2022) 9 SCC 321. The same issue was canvassed before the learned trial court and the learned trial court specifically observed that in the instant case, the Hon'ble Supreme Court in Rekha Murarka

Vs. State of West Bengal and another reported in (2020) 2 Supreme Court Cases 474 was pleased to observe as follows :

“11.5. However, even if there is a situation where the Public Prosecutor fails to highlight some issue of importance despite it having been suggested by the victim's counsel, the victim's counsel may still not be given the unbridled mantle of making oral arguments or examining witnesses. This is because in such cases, he still has a recourse by channelling his questions or arguments through the Judge first. For instance, if the victim's counsel finds that the Public Prosecutor has not examined a witness properly and not incorporated his suggestions either, he may bring certain questions to the notice of the court. If the Judge finds merit in them, he may take action accordingly by invoking his powers under Section 311 CrPC or Section 165 of the Evidence Act, 1872. In this regard, we agree with the observations made by the Tripura High Court in Uma Saha v. State of Tripura [Uma Saha v. State of Tripura, 2014 SCC OnLine Tri 859] that the victim's counsel has a limited right of assisting the prosecution, which may extend to suggesting questions to the court or the prosecution, but not putting them by himself.”

The words used by the Hon'ble Supreme Court are specific and without allowing any relaxation on the issue canvassed by the petitioner. Having regard to the same, I am of the opinion that the order so passed by the learned trial court in Sessions Case No. 43 of 2014 dated 18.10.2023 cannot be interfered with.

Accordingly, the revisional application being CRR 4530 of 2023 is dismissed.

Mr. Bhattacharjee, learned advocate for the petitioner submits that he intends to prefer a special leave to appeal

against the order so canvassed in order to place his oral arguments before the learned trial court.

In view of the prayer so made, the learned trial court is directed to defer the delivery of the judgement on 06.12.2023 and fix next date for delivery of judgement on 20.12.2023. If there are altered circumstances from any higher forum, the petitioner would be at liberty to bring the same to the notice of the learned trial court.

Liberty is given to the learned advocate for the petitioner to communicate the gist of this order to the learned court below and the learned court below is directed to act upon such communication without insisting upon production of the certified copy of this order.

All concerned 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.)