

26.06.2023.  
Item no. 1.  
Court No. 13  
ap

1 IN THE HIGH COURT AT CALCUTTA  
Circuit Bench at Jalpaiguri  
Constitutional Writ Jurisdiction  
(Appellate Side)

**W.P.A. No. 1303 of 2023**

Shiva Sarkar  
Versus  
The State of West Bengal & Ors.

Mr. Abhimanyu Banerjee,  
Ms. Sudhindra Das.

...For the petitioner.

Mr. Washim Ahamed,  
Ms. Sinthia Bala.

...For the State.

Mr. Agniva Banerjee.

..For the respondent nos.6, 7, 9 & 10.

1. Affidavit-of-service filed in Court today be taken on record.

2. The petitioner complains that he is being pressurized by the police to depose in a particular manner in a trial arising out of G.R. Case No. 429 of 2023 under Charge-sheet No. 212 of 2023 dated 8<sup>th</sup> June, 2023 under Sections 302/34 of the Indian Penal Code.

3. Mr. Washim Ahamed, Counsel for the State submits that the petitioner has recorded his statement under Section 161 of the Code of Criminal Procedure and appears to have either turned hostile or does not want to depose, for collateral purposes.

4. Counsel for the petitioner denies the same.

5. While the petitioner submits that he is being intimidated, Counsel for the State denies the same.

6. It is now well settled that a person cannot be compelled to depose either in favour of the accused or to the contrary.

7. This Court is of the view that the petitioner shall be free to depose independently in the trial and it is for the prosecution to take an appropriate decision either to summon the petitioner or otherwise as it may deem necessary to drive home the charges.

8. The Investigating Officer of the case shall not visit the petitioner except through the due process of law.

9. With the aforesaid directions, the instant writ petition shall stand disposed of.

10. There will be no order as to costs.

11. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

***(Rajasekhar Mantha, J.)***