HIGH COURT OF TRIPURA
AGARTALA

Crl. Petn. No.50 of 2024

Sri Debangshu Das, S/o Sri Narasingha Das, resident of Padmerpar, P.O. Paitur Bazar, Kailashahar, Unakoti, Tripoura-799279.

……. Petitioner(s).

Versus

1. The State of Tripura, represented by the Secretary to the Department Home, New Secretariat Complex, Kunjaban, Agartala, West Tripura.
2. Sri Govinda kar, S/o Sri Mintu Kar, resident of HGB Road, Agartala, P.s. West Agartala, District-West Tripura.

……. Respondent(s).

For Petitioner(s)	:	Mr. D. Bhattacharya, Sr. Advocate, Ms. A. Chakraborty, Advocate, Mr. Samar Das, Advocate, Mr. S. Saha, Advocate.
For Respondent(s)	:	Mr. Rajib Saha, Additional Public Prosecutor.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

ORDER

18/12//2024

Heard Mr. D. Bhattachrya, learned senior counsel assisted by Ms. A. Chakraborty learned counsel for the petitioner and Mr. Rajib Saha, Additional Public Prosecutor for the State-respondent.

Petitioner who is the accused and his two witnesses submitted their examination-in-chief on affidavit before the learned Chief Judicial Magistrate (CJM), Unakoti District, Kailashahar in NI case No. 15 of 2015. Later the complainant objected which lead to passing of the impugned order dated 19.06.2024 whereby the learned Court relying upon the decision rendered by the Apex Court in the Case of ***M/S. Mandvi Co-Op Bank Ltd. Vs Nimesh B. Thakore*** reported in ***AIR 2010 SC 1402*** held that the accused could not submit his evidence on examination-in-chief on affidavit. The accused was directed to remain present on the next date positively along with the witnesses.

Mr. D. Bhattacharya, learned senior counsel for the petitioner after being confronted with legal position laid down by the Apex Court in the case of ***M/S. Mandvi Co-Op Bank Ltd. (Supra)*** has submitted that if the examination-in-chief of the accused and the other two defence witnesses is discarded they may be allowed to appear in person and depose. From perusal of the impugned order dated 19.06.2024 it appears that the learned CJM, Unakoti District, Kailashahar had also directed in the same manner to the accused to remain present on the next date positively along with the witnesses. In that view of the matter, the petitioner could not have any apprehension that his defence witnesses could not be allowed to depose in person during examination-in-chief and further subject to cross-examination by the prosecution i.e. the complainant.

Mr. D. Bhattacharya, learned senior counsel for the petitioner at the end submits that the judgment is reserved and the arguments have been concluded. He prays that one opportunity may be allowed to the petitioner to adduce evidence.

However, since the petitioner has approached this Court after six months of the passing of the impugned order and in the meantime trial has concluded in NI case No. 15 of 2015, this Court is not inclined to allow indulgence in favour of the petitioner.

Therefore, this Court does not find any error in the impugned order. Accordingly, the instant petition is dismissed. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ

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