

07.05.2024
Serial no. 7
[G.S.D]

CRR 1353 of 2024

In the matter of : XXX (Mother of Victim)
... .. Petitioner

Mr. Tapas Kr. Ghosh
Mr. Tanmoy Chowhdury
... for the petitioner

Ms. Mamata Jana
... for the State

Mr. Ghosh, Id. advocate for the petitioner, submits that there was a typographical error in respect of the date of occurrence, which was recorded in the deposition of P.W.1.

According to the Id. advocate, the date of occurrence is 25.8.2022 and, instead of the same, it has been recorded throughout the evidence as 30.5.2022.

Ld. advocate submits that the same came to the knowledge of P.W.1 when the certified copy was obtained on 15.9.2023.

The records of the case reflect that the evidence of the case has substantially progressed and, in fact, the P.W.7 has already been examined.

The Id. trial court in its order dated 2.2.2024 rejected the application after appreciating the contentions advanced by the Id. advocate for the Accused as well as the

Id. Special Public Prosecutor, wherein it was submitted that there is no provision to correct such mistake.

The Id. Special Court is directed to follow the procedure of Section 278 of the cr.p.c. and decide the application which has been made for correction of the date after taking into account the documentary evidence which has been relied upon by the prosecution.

If the date of occurrence in the application under section 156(3) of the cr.p.c. differs from what has been deposed in court, then the Id. trial court, obviously, would take into account the factum of the fading of memory of the witnesses with the passage of time and the scope relating to refreshing of memory whether the same was allowed at the time of deposition in court.

The application dated 16.10.2023 be treated as part of the memorandum in respect of the issues to be canvassed at the time of final argument of the case.

Accordingly, to the limited extent, the order dated 2.2.2024 dismissing the application for correcting the date is set aside.

With the aforesaid observations, CRR 1353 of 2024 is **Party Allowed.**

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)