

15.04.2024

Item No.7
Ct.No.34
dc.

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

C.R.R. 1369 of 2024

In the matter of : **Hirak Sk & Ors.**

... Petitioners.

Mr. Saibal Mondal,
Mr. Rajendra Banerjee,
Mr. Joy Chakraborty ... For the Petitioners.

Mr. Debasish Roy, Ld. P.P.,
Mr. Arijit Ganguly,
Ms. Sreemoyi Roy ... For the State.

Mr. Bitasok Banerjee ... For the *de facto* complainant.

Petitioners challenge the order dated 18.03.2024 passed in connection with Sessions Case No. 115 of 2023 arising out of Margram P.S. Case No. 27 of 2023 dated 05.02.2023. The grievance of the petitioners is that the application under Section 231(2) of the Code of Criminal Procedure was refused by the learned trial court at the stage when the examination-in-chief of Milon Sk., PW-1 was completed and the accused persons were to cross-examine. The present application was filed wherein the prayer which was advanced is that the accused persons intended to cross-examine Harun Rashid (CSW-5), Sarif @ Laben Sk. (CSW-2), Amirul Islam (CSW-1), Bidyut Sk. (CSW-13), Chand Sk. (CSW-14) along with Milon Sk. (PW-1) after the examination-in-chief of all the witnesses were over.

Learned Public Prosecutor appearing for the State and the learned advocate appearing for the *de facto* complainant oppose such contention. The statements under Section 161 of the Code of Criminal Procedure of all the witnesses are taken

into account. There is similarity so far as the contents and locus of Milon Sk. (PW-1) and Harun Rashid (CSW-5) as is revealed in the statement under Section 161 of the Code of Criminal Procedure is concerned which is made available before this Court. Accordingly, I direct that the learned sessions court would first direct the prosecution to conduct examination-in-chief of Harun Rashid (CSW-5) and thereafter call upon the present petitioners/accused to cross-examine both the witnesses, namely, Milon Sk. (PW-1) and Harun Rashid (CSW-5). To that extent the application under Section 231(2) of the Code of Criminal Procedure is allowed.

So far as the other witnesses are concerned, they would be independently examined according to the discretion of the public prosecutor conducting the sessions trial.

No further interference is made in the order dated 18.03.2024 and the modification of the said order is made to the limited extent as is directed above.

Mr. Banerjee, learned advocate appearing for the *de facto* complainant submits that there are number of general diary entries from which it would reflect that the accused persons in spite of being in custody have been successful in threatening the family of the complainant and their relations.

If any application is taken out before the learned trial court, the learned trial court would direct the superior officers of police of the concerned district to take steps in accordance with law so that without any hindrance and in a fearless manner, the witnesses can depose before the Court.

With the aforesaid observations, the revisional application being CRR 1369 of 2024 is disposed of.

Pending connected application, if any, is consequently disposed of.

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.)