

09.09.2025
Serial no.45
Piya
Ct. No. 30

CRR 2840 of 2025
Nemai Das alias Nemai Chandra Das
Vs.
The State of West Bengal.

For the Petitioner : Mr. Narattam Acharyya.

For the State : Learned Public Prosecutor along with
Ms. Pushpita Saha.

1. The criminal revision has been preferred challenging an order dated 24.06.2025 passed by the learned Additional Sessions Judge, Fast Track Court II, Murshidabad at Jangipur in connection with Sessions Case no. 35 of 2016, arising out of Suti Police Station Case No. 728 of 2015 dated 19.10.2015 **under Sections 302/34 of the Indian Penal Code 1860**, and thereby rejecting the prayer of the prosecution to re-examine the accused persons under Sections 313 of the Code of Criminal Procedure, 1973.
2. The petitioner herein is the defacto-complainant and is aggrieved by the order under challenge, wherein the trial Court has rejected an application filed by the learned Public Prosecutor stating that there were some discrepancies in the examination of the accused person under Section 313 Cr.P.C. and passed the following order:-

“Sess. Case No. 35/2016

Order No. 90 dated 24.06.2025.

Today is fixed for argument.

At this stage, Ld. PP in charge has filed a petition stating that there was some discrepancies were in the examination of the accused person U/Sec 313 of CrPC.

Ld. Advocate for the accused persons filed hazira.

Heard the Ld. PP in charge and the Ld. Advocate for the defence.

Considering the materials on record and the submissions of both the parties, I am of the view that there is no locus standi for the Ld. PP in charge to dispute the said examination of the accused persons with a view that the prosecution case will be prejudiced for the alleged defect without going for argument which is pending for long two months. Moreover, the Ld. PP in charge has taken several adjournments during this period of two months and now has come out with this petition only with a view to delay the argument. In such circumstances, the petition be rejected and argument be heard.

Hence, it is,

ORDERED

The petition filed today is rejected.

To 02.07.2025 for argument as last chance.

Sd/-

**Addt. Dist. & Sess. Judge,
FTC-II, Jangipur,
Murshidabad.”**

3. As the revision is being disposed of considering the nature of relief prayed for, learned Public Prosecutor along with Ms. Pushpita Saha are appointed to represent the State.
4. Heard the parties. Considered.

5. Section 313 Cr.P.C. lays down:-

“Section 313. Power to examine the accused.-

(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court –

(a) may at any stage, without previously warning the accused, put such questions to him as the Court considers necessary;

(b) shall, after the witnesses for the prosecution have been examined and before he is called on for his defence, question him generally on the case :

Provided that in a summons-case, where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1).

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which

are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this section.”

6. As such Section 313(5) Cr.P.C. provides for the Court to take the help of both the learned prosecutor and the learned defence counsel, for assistance in preparation of questions to be put to the accused/s.
7. Thus the order dated 24.06.2025 passed by the learned Additional Sessions Judge, Fast Track Court-II, Murshidabad at Jangipur in Sessions Case No. 35 of 2016 arising out of Suti Police Station Case No. 728 of 2015 dated 19.10.2015, **being not in accordance with law is set aside.**
8. The trial Court shall hear the application filed by the learned Public Prosecutor/learned defence counsel as per Section 313(5) Cr.P.C. afresh and take his/her assistance to frame questions as deemed necessary and dispose of the application in accordance with law, within thirty days from the date of communication of this order.
9. **CRR 2840 of 2025 stands disposed of.**
10. All connected Applications, if any, stands disposed of.
11. Interim order, if any, stands vacated.

- 12.** Copy of this order be sent to the learned Trial Court.
- 13.** Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)