

CRR 9 of 2025

**Vikash Singh @ Vicki
Vs.
The State of West Bengal**

Mr. Sandip Kr. Bhattacharya
Mr. Soumya Basu Roy Chowdhuri
Mr. Soumyajit Das Mahapatra
Mr. Dipta Dipak Banerjee ...for the petitioner

Mr. Sabyasachi Banerjee, Sr. Adv.
Ms. Nahid Ahmed
...for the defacto-complainant

This is an application under Section 442 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 against the order passed by the trial court dated 29th November, 2024. By the impugned order, learned court below has rejected the prayer for the prosecution to re-examine PW 4 for the purpose of explaining matter relating to CCTV footage referred to in the cross-examination.

It is submitted on behalf of the petitioner that during investigation, police had collected certain CCTV footage in connection with alleged incident but while the copy was served under Section 207 of the Code, no copy of CCTV footage was given to the petitioner/accused. When such prayer was made before the Trial court for giving copy of CCTV footage, which prosecution has collected during investigation, it was submitted by way of filing an application dated 22nd March, 2022 by the prosecution that the prosecution is not going to rely upon the CCTV footage before the

Trial court and that is why, without serving a copy of the CCTV footage, charge can be framed against the accused person.

Being aggrieved by the refusal of supplying copy of CCTV footage to the petitioner/accused, one of the accused preferred an application under Section 482 of the Code of Criminal Procedure before the High Court being CRR 943 of 2022 and this High Court, while disposing the said revisional application, was pleased to direct the prosecution to give a copy of CCTV footage to the accused under Section 207 of the Code. Thereafter, a copy of the CCTV footage that were collected during investigation, was handed over to the accused person.

Subsequently trial of the case commenced and the petitioner accused has made a prayer for cross-examining the CS witness no. 1,2,3 and 4 after completion of their examination-in-chief, since they do not want to disclose their defence beforehand. Such prayer before the trial court was allowed and the examination-in-chief on behalf of the prosecution in connection with CS witness nos. 1,2,3 and 4 have already been completed. Thereafter, the cross-examination of CS witness no. 4 by the accused/petitioner has been completed. After such completion of cross-examination of PW 4, the prosecution has come up with an application for re-examination of PW 4 namely, Samir Maji @ Batul. Learned Trial Court by the impugned order, has been pleased to allow such prayer for re-examination of PW 4 and has also given liberty to the accused/petitioner to make cross-examination after re-examination. Being aggrieved by that order, present application has been preferred by the petitioner.

Having heard learned counsel for the petitioner and also hearing of Mr. Banerjee, who stated to have represented on behalf of the defacto-complainant (though the defacto-complainant is not a party in the present proceeding), the present application is admitted.

After considering the submissions made on behalf of the petitioner and also on perusal of the documents available in the record, I find that there is a mistake in the order impugned, which is apparent on the face of the record and as such, the service of copy of the application upon the State is hereby dispensed with.

It appears that while the said application for re-examination was made before the court below by the prosecution, it fails to disclose what questions the prosecution is intended to put by way of re-examination to the PW 4 and learned court below has overlooked this aspect of the matter and without considering relevancy of such prayer has passed the blanket order in favour of the prosecution. This error in the finding of the trial court is apparent and needs to be interfered by invoking jurisdiction of this court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

In such view of the matter, the order no. 72 dated 29.11.2024 passed in ST no. 38 of 2021 by the Additional District Judge, Fast track court, Howrah is hereby set aside.

Liberty is given to the prosecution to file a fresh application with a prayer for re-examination of PW 4 disclosing the questions that they want to put to the witness by way of re-examination. In the event of filing such application by the prosecution for re-examination of PW 4 as above the court below, will give

opportunity to the petitioner and other accused persons to file objection if any and thereafter, to dispose of such application in accordance with law. The process of filing such application for re-examination if any, and objection if any, and the hearing of such application (if any) is to be completed by the court below preferably within a period of one month from the date of communication of the order.

CRR 9 of 2025 is accordingly disposed of.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)