

(2018) 07 CAL CK 0027
In the Calcutta High Court
Case No : CRR 1200 of 2018

Panna Sarkar, Raju, Rajib & Ors.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 05-07-2018

Acts Referred:

Code Of Criminal Procedure 1973 — Section 231(2)
Protection of Children from Sexual Offences Act, 2012 — Section 33, 33(5), 35

Citation : (2018) 07 CAL CK 0027

Hon'ble Judges : JAY SENGUPTA, J

Bench : Single Bench

Advocate : Kaushik Chowdhury, Bitasha Majumdar, Ayan Basu

Final Decision : Disposed Of

Judgement

This is an application challenging the order passed by the learned Additional Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur in POCSO Case No.

25/2017 thereby rejecting the petitioner's prayer for deferment of cross-examination of some witnesses under Section 231(2) of the Code of

Criminal Procedure.

The learned counsel appearing on behalf of the petitioner submits that although the petitioners prayed for deferment of cross-examination of 7

witnesses including the two witnesses viz. CSW 1 and CSW 3, the prayer in respect of CSWs 7, 8, 13 and 14 were not allowed as they were not

related to the victim girl. The petitioner further contends that if the deferment of cross-examination is not allowed for all those witnesses who were the

purported eye witnesses to the incident, defence of the accused would get disclosed.

The learned counsel appearing on behalf of the State submits that the dates for

examination for witnesses have been fixed a number of times but the defence kept on praying for adjournments on some pretext or the other. He contends that the mandate of Section 33 and 35 of the POCSO Act have to be meticulously followed.

The learned advocate submits that the defence ought not to have refused to cross-examine of PWs 2 and 3, the two minor victim girls especially when the other accused have already cross-examined them. The learned Advocate for the State submits in his usual fairness that a single opportunity may be given to the present petitioners to cross-examination the victim girls PWs 2 and 3 in the interest of justice.

I have heard the submissions of the learned advocates for the petitioner and the State. I have also gone through the petition alongwith the copy of the ordersheet. It appears that PWs 2 and 3 were examined in chief on 05.02.2018. Their cross examinations were deferred. But the defence prayed for deferment of the cross on 23.03.2018. The cross-examination had to be deferred to 09.04.2018 for PW 2 and to 10.04.2018 for PW 3. Yet the present petitioners chose not to cross-examine the victim girls. As such the learned trial court was justified in insisting on strictly following the mandates of Section 33(5) of the POCSO Act.

I find no merit in the application for deferment of cross-examination of the witnesses as sought by the petitioners in this revisional application.

However, in the interest of justice, the learned trial court shall give a single day's opportunity to the petitioners to cross-examination PWs 2 and 3

as per its convenience and thereafter conclude the trial as expeditiously as possible following the mandate of Section 35 of the POCSO Act. This

revisional application is disposed of. There will be no order as to costs. Urgent photostat certified copy of this order, if applied for, shall be given to the

parties as expeditiously as possible on compliance of all necessary formalities.