

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev. P. No.11 of 2025

Jahangir Miah, S/o Late Kanu Miah, at Bishalgarh, Routhkhala, P.S. Bishalgarh, Sepahijala Tripura, presently C/o Abdul Miah, at Udaipur Town, Sonamura, P.S. – R.K. Pur, Udaipur, Gomati Tripura.

..... Petitioner(s).

V E R S U S

The State of Tripura, represented by the Secretary, the Department of Home, New Secretariat Complex, P.O. Kunjaban, P.s. N.C.C., District-West Tripura.

..... Respondent(s).

For Petitioner(s) : Mr. Samar Das, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

28/02/2025

Heard Mr. Samar Das, learned counsel for the petitioner and Mr. Raju Datta, learned Public Prosecutor, for the respondent-State.

The Special Judge, Gomati Judicial District, Udaipur has by the impugned order dated 29.01.2025 rejected the prayer for further cross-examination of PW-1 & 4 who had been examined, cross-examined and discharged earlier. The learned Special Judge, Gomati Judicial District, Udaipur, has however, allowed cross-examination of PW-9 who is a medical witness. Being aggrieved by the rejection of the prayer for further cross-examination of PW-1 & 4, the petitioner has approached this Court.

Mr. Samar Das, learned counsel for the petitioner submits that certain statements of the PW-1 & 4 recorded under Section 161 of Cr.P.C. could not be confronted to them during cross-examination due to the inadvertent mistake of the learned defence counsel. The accused would suffer on account of that and principles of natural justice would also suffer. Therefore, interference may be made.

Mr. Raju Datta, learned Public Prosecutor has strongly opposed the prayer. He submits that it is only an attempt to fill up the lacunae during trial by asking for further cross-examination of PW-1 & 4 who have been examined, cross-examined at the behest of the petitioner-accused and discharged to the satisfaction of the parties. Therefore, in view of the settled principles of law, no party should be allowed to gain advantage by filling up the lacunae in evidence by seeking further cross-examination or re-examination of a witness.

On consideration of rival submissions of the parties and on perusal of the materials on record this Court does not find any error warranting interference by this Court under revisional jurisdiction of the Court as both the witnesses PW-1 & 4 were duly examined and cross-examined in the presence of the accused and, thereafter discharged. Later, the accused-petitioner sought further cross-examination of these two witnesses in order to fill up the gap. That is not permissible in law. The learned trial court has discretion to allow further examination of witness if his evidence appears to be essential to the just decision of the case. Section 311 of the Criminal Procedure Code is to strengthen the arms of the Court in its effort to unearth the truth by procedure sanctioned by law. At the same time, the discretionary power is to be exercised judiciously for strong and valid reasons and with caution and circumspection to meet the ends of justice. The accused had proper opportunity to cross-examine the concerned witnesses i.e. PW-1 & 4, whereafter they were discharged. No strong reasons have been shown to allow further cross-examination of those witnesses. [See *Swapan Kumar Chatterjee Vs. Central Bureau of Investigation*, (2019) 14 SCC 328 para 10 & 11, also relied upon in *V.N. Patil*

Vs. K. Niranjana Kumar & Ors., (2021) 3 SCC 661]. Therefore, the impugned order does not suffer from any such error calling for interference. Petitioner has, however, been allowed to cross-examine the medical witness i.e. PW-9 whose cross-examination had not taken place.

This Court, therefore, does not find any reason to interfere in the impugned order. Accordingly, the present petition is dismissed.

Pending application(s) if any, shall also stand disposed of.

(APARESH KUMAR SINGH), CJ

