

In the Supreme Court of Bangladesh  
High Court Division  
(Criminal Revisional Jurisdiction)

**Criminal Revision No. of 2023**

**In the matter of:**

An application under Section 439 and read with  
Section 435 of the the Code of Criminal Procedure.

**-And-**

**In the matter of:**

Shimul Dhor @ Babu

.... Accused-Petitioner

**-Versus-**

The State

.... Opposite Party

Mr. Ruhul Amin, Advocate

.... For the accused-Petitioner.

Mr. Sujit Chatterjee, D.A.G. with

Mr. Noor Us Sadik Chowdhury, D.A.G.

Mr. Moududa Begum, A.A.G.

Mr. Mirza Md. Soyeb Muhit, A.A.G.

Mr. Mohammad Selim, A.A.G.

Mr. Zahid Ahmed (Hero), AAG

.... For the State

**Present:**

**Mr. Justice S M Kuddus Zaman**

**And**

**Mr. Justice A.K.M. Rabiul Hassan**

**The 13<sup>th</sup> May, 2024**

This is an application under Section under Section 439 read  
with Section 435 of the Code of Criminal Procedure at the instance  
of the accused Shimul Dhor @ Babu recall of PW1 Milon Kanti

Dhor, PW2 Ritu Kumar Dhor, PW5 Prodesh Dash and PW8 Noyontara for further cross examination.

Mr. Ruhul Amin, learned Advocate for the petitioner submits that he would not press above petition as far the same relates to recall of PW2 Ritu Kumar Dhor and PW8 Noyontara for further cross examination. The learned Advocate further submits that due to error and mistakes on the part of the appointed Advocate for the petitioner some important questions could not be asked to PW1 Milon Kanti Dhor. Moreover, above witness he was recalled by the prosecution and gave further evidence but in respect of above further evidence he was not not cross examined. As far as PW5 is concerned the learned Advocate submits that he was examined by the prosecution but he could not be cross examined.

We have considered the submissions of the learned Advocate for the petitioner and carefully examined the evidence of PW1 Milon Kanti Dhor and PW5 Prodesh Dash.

It turns out from evidence of PW1 Milon Kanti Dhor that he was extensively cross examined on behalf of the petitioner. It is true that he was recalled by the prosecution but on recalls he merely produced some documents and material and he did not gave any stateents. As far as above documents are concerned above witness was extensively cross examined on behalf of the petitioner.

There is no mention as to why the learned Advocate for the petitioner did not further cross examined PW1 after re-

examination by the prosecution. We do not find any substance the claim that the petitioner will be affected in making appropriate defence if PW1 Milon Kanti Dhor was not further cross examined.

As far as PW5 is concerned we have found that his examination was not concluded by the prosecution. As such the petitioner shall get an opportunity to cross examine above witness after his examination is concluded by the prosecution.

In above view of the materials on record we are unable to find any substance in this petition under Section 439 read with Section 435 of the Code of Criminal Procedure and the same is rejected summarily.

Communicate this order to the learned Court concerned at once.

MD. MASUDUR RAHMAN  
BENCH OFFICER