

21.02.2013

Accused persons are present.

Witness Sri Bhuban Bora is examined as P.W.1 and discharged after cross-examination.

Although witness Bipul Borthakur is present but he could not be examined as the M.R. Being No. 373/07 is not produced before the Court.

Seen the prayer of one Sri Lakhindra Das, the police Constable of Malkhana, P.I's Office, stating interalia that the said M.R. is not found in the Malkhana and though they have contacted with Jorhat P.S. but they could not get any response from them for which the M.R. could not be produced today.

The record reveals that on the last date, i.e. 07.02.2013 also, two witnesses, namely Bhuban Bora and Bipul Borthakur, who were present in the Court, but they could not be examined due to non-production of the M.R. from the Court Malkhana. On that day also Sri Lakhindra Das, Constable of P.I's Office, had made a prayer that the M.R could not be found in the Malkhana and prayed for another date for production of the same. It is very unfortunate that the P.I's Office, in spite of manning by two officers, the prayer is being made to this Court by a Constable of Police, who is not supposed to be the In-charge of P.I's Office. It is needless to mention that it is the bounden duty of the prosecution to produce all the witnesses and other documents before the Court when the case is called on for hearing as the cases are initiated on the basis of the report of the prosecution. The prosecution cannot legally deviate from its lawful duty when the citizen is involved in the cases and when their personal rights and liberty are being adjudicated by a Court of Law. In the instant case due to lapse of the prosecution, more particularly due to the lapse of the P.I's office, for non-production of materials under the M.R mentioned above, two witnesses shall have to be returned by this Court and one witness, namely Bipul Borthakur, shall have to be returned today on the second occasion which naturally undermines the dignity of the Court in the eye of public. Apart from this, the case is more than five years old which was initiated on 04.12.2007.

Under the aforesaid circumstances, the P.I. is directed to produce the M.R. in question on or before the next date. The matter be informed to the Superintendent of Police, Jorhat, for information and necessary action.

Fixing 05.03.2013 for production of the M.R. and 13.03.2013 for evidence.

*Chief Judicial Magistrate,
Jorhat.*