

ICT-BD [ICT-1] Case No. 02 of 2016

Chief Prosecutor Versus Salamatullah Khan and others

Order No. 14

Date 30.10.2017

Accused (1) Salamatullah Khan, (2) Moulavi Nurul Islam alias Nurul Islam, (3) Badsha Mia, and (4) Osman Gani alias Moulavi Mohammad Osman Gani have been produced before this Tribunal today by the prison authority.

Accused on bail (5) Mohammad Rashid Miah alias Mohammad Rashid is present in the Tribunal today. Other 12 accused persons have been absconding.

At the out set of the session the learned prosecutor Mr. Rana Das Gupta placed the application submitted on 13.07.2017 seeking necessary order on the grounds stated therein.

The learned prosecutor submitted that on the date of hearing charge framing matter the learned defence counsel informed that accused Moulavi Abdul Majid alias Abdul Majid already died on 22.12.2016.

It is to be noted that in view of report dated 28.04.2016 submitted by the Assistant Inspector General of Police (Confidential) this accused was treated absconding and accordingly after compliance with necessary legal requirements date 13.7.2017 was fixed for hearing charge framing matter. But a report submitted by the Investigation Officer together with some papers to the Chief Prosecutor demonstrates that the accused Moulavi Abdul Majid alias Abdul Majid died on 22.12.2016, the learned Prosecutor added.

The learned prosecutor further submitted that taking the above report into account the Tribunal by its order dated 13.07.2017 halted proceedings against the dead accused Moulavi Abdul Majid alias Abdul Majid and accordingly proceedings against this accused stood abated, as ordered.

The learned prosecutor next submitted drawing attention to a report dated 13.02.2017 submitted by Md. Zahirul Haque, Sub-Inspector, Moheshkhali Police Station, Cox'sbazar that this report contains misleading information as it demonstrates

that the accused was alive. This report has caused obstructions to the normal proceedings of the case.

The learned prosecutor also drawing attention to the report submitted by the Officer-in-Charge, Moheshkhali Police Station, Cox'sbazar dated 11.06.2017 together with report of Md. Imam Hossain, Sub-Inspector, Moheshkhali Police Station, Cox'sbazar submitted that the same also shows that the accused Moulavi Abdul Majid alias Abdul Majid died on 22.12.2016 at his own house due to old age complications. If it is so, how and what basis Md. Zahirul Haque, Sub-Inspector, Moheshkhali Police Station, Cox'sbazar submitting the report dated 13.02.2017 states that despite making search at the house of this accused he couldn't cause his arrest.

In view of submission as made above, on perusal of the above report submitted in execution of W/A issued against the accused Moulavi Abdul Majid alias Abdul Majid initially it transpires that Md. Zahirul Haque, Sub-Inspector, Moheshkhali Police Station, Cox'sbazar and Officer-in-Charge, Moheshkhali Police Station, Cox'sbazar are chiefly responsible for providing misleading information, in other words terming the dead accused alive, in relation to execution of W/A issued by the Tribunal. The blatant inattention as has been found on part of law enforcement agency had made space to go on with the proceeding against a dead person. It is frustrating indeed.

Superintendent of Police, Cox'sbazar also can not absolve the responsibility of due execution of W/A. He should have concentrated due attention on this matter.

However, now the Tribunal considers it expedient to obtain explanation over the negligence done. Accordingly, **Md. Zahirul Haque, Sub-Inspector, Moheshkhali** Police Station, Cox'sbazar is directed to explain in writing the gross negligence unveiled in carrying out Tribunal's order by appearing in person before this Tribunal **on 26.11.2017**.

The Superintendent of Police, Cox'sbazar and the Officer-in-Charge, Moheshkhali Police Station, Cox'sbazar are also directed to submit explanation of their own over the matter relating gross negligence as has been found in execution of W/A issued by the Tribunal.

Let a copy of this order be sent to the **Inspector General of Police, Bangladesh, Dhaka** for information and also with the expectation of providing necessary guidelines to the concerned officials engaged in executing the W/A issued by the Tribunal.

Let copy of this order also be transmitted to **(1) The Superintendent of Police, Cox'sbazar, (2) the Officer-in-Charge, Moheshkhali Police Station, Cox'sbazar and (3) Md. Zahirul Haque, Sub-Inspector, Moheshkhali Police Station, Cox'sbazar** for necessary and due compliance.

Next, the learned prosecutor Mr. Rana Das Gupta started placing submission in respect of charge framing matter.. At a stage he has prayed further time to conclude the hearing. Accordingly, let 26.11.2017 be fixed for further hearing on charge framing matter.

(Justice Md. Shahinur Islam, Chairman)

(Justice Amir Hossain, Member)

(Judge Md. Abu Ahmed Jamadar, Member)