

CrPC S. 24(8)

CrPC 301(2)

CrPC, S. 24(8), 301(2) - Assist - Use of the term “assist” in the proviso to Section 24(8) is crucial, and implies that the victim’s counsel is only intended to have a secondary role qua the Public Prosecutor - “Extent” to which such assistance can be accorded under Section 24(8) - Pleaded that there may be instances where the Public Prosecutor may fail to perform his functions properly, whether deliberately or due to oversight, which may obstruct justice instead of furthering it and that the role of the victim’s counsel should not be limited to filing of written arguments as provided with respect to pleaders engaged by private parties under Section 301(2) and should extend to making oral arguments and examining witnesses as well - Such a broad mandate for the victim’s counsel cannot be given effect, as it is not rooted in the text of the Cr.PC - A mandate that allows the victim’s counsel to make oral arguments and cross-examine witnesses goes beyond a mere assistive role, and constitutes a parallel prosecution proceeding by itself. Given the primacy accorded to the Public Prosecutor in conducting a trial, as evident from Section 225 and Section 301(2), permitting such a free hand would go against the scheme envisaged under the CrPC. [Para 12, 12.1]

Held, In some instances, such a wide array of functions may also have adverse consequences on the fairness of a trial. For instance, there may be a case where the Public Prosecutor may make a strategic call to examine some witnesses and leave out others. If the victim’s counsel insists upon examining any of the left out witnesses, it is possible that the evidence so brought forth may weaken the prosecution case. If given a free hand, in some instances, the trial may even end up becoming a vindictive battle between the victim’s counsel and the accused, which may further impact the safeguards put in place for the accused in criminal trials. These lapses may be aggravated by a lack of advocacy experience on the part of the victim’s counsel. In contrast, such dangers would not arise in the case of a Public Prosecutor, who is required to have considerable experience in the practice of law, and act as an independent officer of the Court. Thus, it is important to appreciate why the role of a victim’s counsel is made subject to the instructions of the Public Prosecutor, who occupies a prime position by virtue of the increased responsibilities shouldered by him with respect to the conduct of a criminal trial.

Read Judgment : [2019 PLRonline 3015](#)