

CrPC S. 24(8)

CrPC 301(2)

CrPC, S. 24(8), 301(2), 311 - Evidence Act, 1872, S. 165 - Use of the term “assist” in the proviso to Section 24(8) - Given that the modalities of each case are different, we find that the extent of assistance and the manner of giving it would depend on the facts and circumstances of each case - Though we cannot detail and discuss all possible scenarios that may arise during a criminal prosecution, we find that a victim’s counsel should ordinarily not be given the right to make oral arguments or examine and cross-examine witnesses - As stated in Section 301(2), the private party’s pleader is *subject* to the directions of the Public Prosecutor - In our considered opinion, the same principle should apply to the victim’s counsel under the proviso to Section 24(8), as it adequately ensures that the interests of the victim are represented - If the victim’s counsel feels that a certain aspect has gone unaddressed in the examination of the witnesses or the arguments advanced by the Public Prosecutor, he may route any questions or points *through* the Public Prosecutor himself - This would not only preserve the paramount position of the Public Prosecutor under the scheme of the CrPC, but also ensure that there is no inconsistency between the case advanced by the Public Prosecutor and the victim’s counsel - However, even if there is a situation where the Public Prosecutor fails to highlight some issue of importance despite it having been suggested by the victim’s counsel, the victim’s counsel may still not be given the unbridled mantle of making oral arguments or examining witnesses - This is because in such cases, he still has a recourse by channelling his questions or arguments through the Judge first - If the victim’s counsel finds that the Public Prosecutor has not examined a witness properly and not incorporated his suggestions either, he may bring certain questions to the notice of the Court - If the Judge finds merit in them, he may take action accordingly by invoking his powers under Section 311 of the CrPC or Section 165 of the Indian Evidence Act, 1872.

Read Judgment : [2019 PLRonline 3015](#)