



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 49 of 2024

Date of Order: 16.08.2024

Shri Moonshine Nongkhlaw
S/o. A. Kharbangar,
R/o. Nongthymmai Kyrдем village,
Ri-Bhoi District, Meghalaya.

Vs. State of Meghalaya, Rep. by
the Public Prosecutor /
Special Public Prosecutor.

.... **Petitioner.**

.... **Respondent.**

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Dey, Adv.

For the Respondent(s) : Mr. K. Khan, AAG with
Mr. S. Sengupta, Addl, Sr. GA.

ORDER (ORAL)

1. Heard Mr. S. Dey, learned counsel for the petitioner and Mr. K. Khan learned AAG appearing for the State respondent.
2. This application has been filed challenging the order dated 09.08.2024 passed by the Learned Special Judge (POCSO), Ri-Bhoi District, Nongpoh in Spl. (POCSO) Case No. 7 of 2021 under Section 3 (a)/4/17 of the POCSO Act by which, the defence counsel is directed to



be physically present before the Trial Court on 19.08.2024 for conducting cross examination of PW No. 4 and PW 5. It is also ordered therein that cross examination of the said witnesses would not be allowed via video conferencing.

3. The learned counsel for the petitioner contends that at present, as per the prevailing norms, all the proceeding before the courts in all the states across the country are conducted via hybrid mode except the places where the facility is not available. He submits that the Apex Court is also encouraging adoption of hybrid mode of hearing all over the country, but the Trial Court, in the instant matter, without assigning any reason, has passed the impugned order depriving the petitioner of the opportunity to conduct the cross examination of PW 4 and PW 5 via video conferencing. According to him, passing of the impugned order amounts to interference with the privilege enjoyed by the litigants throughout the country and the order dated 09.08.2024, as such, requires to be interfered with by this Court.

4. The learned AAG does not dispute the fact that most of the hearings before the courts are conducted via hybrid mode and in recent times, the adoption of hybrid mode for conducting hearing before the courts are encouraged.

5. A perusal of the impugned order dated 09.08.2024 passed by the Trial Court does not show the reasons for which the cross examination of the aforesaid witnesses is not allowed to be conducted through video conferencing. It is also not observed anywhere in the said order that the cross examination of the witnesses via video conferencing will not be conducive due to certain reason.



6. Since the order under challenge herein is confined to the question of availing of benefit of cross examination via video conference, the matter does not fall strictly under the purview of criminal law. Hence, the provision of Section 362 Cr.PC will not apply. Thus, it is deemed appropriate at this juncture to grant liberty to the petitioner to file an application before the Trial Court, seeking permission to conduct the cross examination of PW 4 and PW 5 via video conferencing in case of any practical difficulty on the part of the counsel for the petitioner to appear physically before the Trial Court on the date fixed. In the event of filing of any such application by the petitioner, the Trial Court shall pass a reasoned order by taking into consideration all the relevant aspects of the matter. It is, however, provided that no adjournment shall be granted by the Trial Court on the date fixed for cross examination of the said witnesses only except in case of unavoidable circumstances. It is also provided that in the event the Trial Court adjourns the matter for some unavoidable reason, the petitioner shall be made liable to bear the cost.

7. With the above, this criminal petition stands disposed of.

Judge

Meghalaya

16.08.2024

"N.Swer, Stenographer, Gr-II"