

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1423 of 2016**

Dr. Ramesh Prasad Diwedi, aged 49 years, S/o Shri Virindavan Prasad Diwedi, R/o Plot No. 627/43, Awadhpuri, Risali, P.S. Nevai, Tah. & Distt. Durg, Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through Police Station Nevai, District Durg, Chhattisgarh.

---- Respondent

For the Petitioner	: Shri Devershi Thakur, Advocate.
For the Respondent/State	: Shri Neeraj Sharma, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****01.09.2017**

1. Heard.
2. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to quash the impugned order passed by the Court below and pass an order for providing the petitioner with document of entire C.C.T.V. Footage.
3. Learned counsel for the petitioner submits that the petitioner is being prosecuted for the offence under Sections 354 and 354A of the Indian Penal Code and Section 11(i) read with Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act'). An application

was moved by the petitioner/ accused before the trial Court praying that during investigation, the Investigating Officer has procured in the investigation, a C.C.T.V. Footage with respect to the place of incident i.e. D.P.S. School, Risali. The petitioner has been provided with a copy of the C.C.T.V. Footage, which is only a part of the C.C.T.V. Footage recorded, which is available with the Investigating Agency and the prayer was rejected by the trial Court. It is submitted by counsel for the petitioner that the respondents have not specifically denied that they are not in possession of the whole C.C.T.V. Footage of the period and the place of incident concerned. Hence, the order passed by the Court below be set aside and a specific order be passed against the respondent for supplying a copy of the entire C.C.T.V. Footage which has been taken on record in the investigation, in the interest of justice.

4. Reliance has been placed on the judgments of the Supreme Court in the case of **Purshottam Jethanand vs. State of Kutch** reported in **AIR 1954 SC 700**, **State of Kerala vs. Raghavan etc.** reported in **1974 Cr.L.J. 1373** (Kerala High Court), in which it was held that the prosecution cannot deny providing the document only on this basis that the prosecution does not want to rely on the same for prosecuting the accused concerned.

5. Reliance has also been placed on the judgments of the Supreme Court in the case of **Shri Bhagvan Samradha vs. State of Andhra Pradesh** reported in **1999 SCC (5) 248**, **Shri Handsal Bhai vs. State of Gujrat** reported in **2004 SCC (5) 347** and **Tomaso Bruno and Another vs. State of Uttar Pradesh** reported in **(2015) 7 SCC 178**, in which it was held that any information that is relevant for the just decision of the case which

has been gathered by the investigating agency, must be produced before the Court provided that such revelation would not jeopardize the public interest.

6. Learned State counsel has opposed the grounds in petition and the submissions made in this respect. It is submitted that the case against the petitioner was at the stage of framing of charge, hence, it was not necessary to provide the document of the entire C.C.T.V. Footage to the petitioner. Hence, it is prayed that the petition may be dismissed.

7. Perused the record.

8. Considering the submissions made and the documents placed on record, it is clear that the respondent/ State and the investigating agency have not specifically denied that they are not in possession of the entire C.C.T.V. Footage of the concerned period and place of incident. In view of the principles laid down as mentioned above on which the petitioner has placed reliance, in case the accused persons make a demand to be provided with the documents collected in the investigation, no denial can be made by the Investigating Agency, prosecution or the State, unless providing of such documents etc is against the public interest. No such ground has been raised by the respondent/ State that providing the copy of the entire C.C.T.V. Footage shall be detrimental to the public interest. After due consideration, it is found that this petition deserves to be allowed and it is allowed. The impugned order passed by the Learned Court below is set aside and the learned trial Court is directed to reconsider the application of the petitioner in view of the observations made and the State shall have an opportunity to raise any objection in this respect before the trial Court. The

trial Court shall after affording the State an opportunity to raise an objection and thereafter, pass an order afresh. This petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nimmi