

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CRM-25995-2019 in
CRM-M-8961-2019(O&M)
Date of Order:01.10.2019**

Lakshmi Anand Prakash

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sangram Singh Saron, Advocate and
Ms. Shubreet Kaur, Advocate,
for the applicant-petitioner.

Mr. Vikas Chopra, DAG, Haryana.

ANIL KSHETARPAL, J(Oral)

Prayer of the petitioner, who is a prosecution witness and first informant-victim to be examined as prosecution witness, to examine her on commission keeping in view her age-86/88 years and their medical condition, has been dismissed by the Additional Chief Judicial Magistrate.

Section 284 of the Code of Criminal Procedure enables the Court to examine a witness by issuing a commission if the Court finds that it is necessary for the ends of justice. It has been pleaded in the application that the petitioner is 88 years old, suffering from “vertigo and fluctuating blood pressure as well as deep vein thrombosis”. She cannot stand or sit for long hours.

The Additional Chief Judicial Magistrate, Faridabad, dismissed the application on the ground that as per medical record produced, there is no prohibition to travel.

In the considered view of this Court, the learned Additional Chief Judicial Magistrate should have been more considerate keeping in

view the age of the applicant-petitioner. Once there is power available to the Court, the Court should exercise the same in accordance with law. The efforts should be to do substantive justice rather than going into technicalities.

Hence, the order under challenge is set aside.

Learned counsel for the State, on instructions from ASI Ajay Singh, has informed the Court that the case is fixed for 22.10.2019.

Learned trial Court is requested to appoint a Commissioner for examining the petitioner. Keeping in view the age of the petitioner, the Court is requested to immediately carry out the directions.

The petitioner is granted liberty to move an application on the basis of this order before the trial court before the date already fixed enabling the Court to pass appropriate orders after notice to all the parties.

Through the application, petitioner has also made a prayer that the cross-examination be carried out through written questionnaire. In the considered view of this court, let this request be considered by the trial Court.

Disposed of accordingly.

**October 01, 2019
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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No