

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.6949 of 2019

ORDER :

This Criminal Petition is filed under Section 482 Cr.P.C. by the State represented by Public Prosecutor challenging the order, dated 11.12.2018 passed in CrI.M.P.No.5329 of 2018 in S.C.No.526 of 2017 by the Metropolitan Sessions Judge, Ranga Reddy District at L.B. Nagar.

2. Heard the learned Additional Public Prosecutor representing the petitioner-State. Though notice sent to the respondent was served, none appears on behalf of the respondent-accused.

3. As seen from the record, it is clear that the petition filed by the prosecution under Section 65-B of Evidence Act to permit the prosecution to examine L.Ws. 4 and 11 on skype on the ground that the witnesses are foreigners and staying in Congo, was partly allowed permitting the prosecution to examine L.W.4 on skype. Hence, this petition.

4. The learned Sessions Judge while answering the point, observed that in order to meet the ends of justice, it is essential to permit the prosecution to examine L.W.4 on skype. As far as plea of examination of L.W.11 is concerned, the prosecution was not permitted to examine him since he is not an eye witness to the incident.

5. Learned Additional Public Prosecutor representing the petitioner-State submits that the learned Judge ought to have seen that L.W11 is the brother of the deceased and he is the person who has last seen the deceased alive, as such, his evidence is very crucial for the case of the prosecution. He further submits that L.W.11 is residing in Congo, as such, he is not able to come to India and give his evidence, for which, the prosecution has no other alternative except to examine him by way of skype. He further submits that no prejudice would be caused to the accused person, if L.W.11 is examined through skype.

6. Learned Additional Public Prosecutor furnished copy of Section 161 Cr.P.C. statement of L.W.11 recorded by the police during the course of investigation, wherein he stated as follows:

“I am a native of Congo and recently came down to India and started residing in Gachibowli, Hyderabad along with his sister Smt.Cynthia Vechel Kadima’s family. When she was at Congo, Rupesh Kumar Mohanani came into contact and married her in the year 2008 and they were blessed with a baby child Sania. In the year 2012, they came to India and started residing in Gachibowli. Hyderabad. On 30.06.2016, Rupesh Kumar came home with a new car and told that he purchased it. On 02.07.2016, Rupesh told us that he got promotion and on 03.07.2016 he took us to picnic and at the time of leaving for picnic, Rupesh handed over petrol can to security guard Pranab. They enjoyed a lot and captured some photographs in mobile phones. They returned home at 8 PM. At that time, Rupesh took the petrol can back from the security guard. Rupesh offered a party on the occasion of his promotion as they did not enjoy yesterday’s party. Rupesh and I went to wine shop and purchased wine ‘Lacourta’. My sister and I consumed it and at about 12 in the mid night I hit the bed. Next day morning at about 12.30 hours, Rupesh woke up me and compelled me to go out by saying that one of his relatives saw all of us in yesterday’s picnic and they are about to come to our flat to know about us. I

asked Rupesh where my sister was, for which he replied that she went to a party with her friend Faiza and from there, they would go to a movie. He gave me Rs.400/- and dropped me at Hitech City. He called me several times to confirm whether I was going to my friends room at Secunderabad or not. He promised me to pick up at 10 PM, but he did not come and his phone was switched off. Later, I came to know that Rupesh killed his sister brutally by cutting into pieces and set her ablaze at Shamshabad area. I rushed there and found the dead body of my sister in pieces.”

7. A perusal of Section 161 Cr.P.C. statement of L.W.11 recorded by the police, it is crystal clear that L.W.11 was also present with the accused and the deceased till morning 1230 hours and thereafter, he was forcibly sent by the accused, who is his brother-in-law. Therefore, the examination of L.W.11 before the Court as a prosecution witness is also necessary to arrive at a just conclusion of the case.

8. In the light of the prayer made by the learned Addl. Public Prosecutor and the statement of L.W.11 recorded by the prosecution, the prosecution is permitted to examine L.W.11 as one of the witnesses on skype in S.C.No.526 of 2017 on the file of the Metropolitan Sessions Judge, Ranga Reddy District at L.B. Nagar.

9. Accordingly, the Criminal Petition is disposed of. Miscellaneous petitions, if any pending shall stand closed.

JUSTICE G.SRI DEVI

DATED: 29.01.2020
Hsd



