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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1562/2020, CRL.M.A. 9036/2020 & CRL.M.A. 9037/2020

GAURAV SHUKLAApplicant

Through: Mr.Rajiv Mohan and Mr. Aabhimanyu
Advocates.

Versus

STATE & ANR.Respondents

Through: Mr.Kamal Kumar Ghei, APP for State
with SI Bansi Lal PS K. M. Pur.
Mr. Hitesh Vali, Advocate for
complainant.

HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
10.07.2020

(hearing through Video Conferencing)

CRL.M.A. 9036/2020 & CRL.M.A. 9037/2020 (Ex.)

Exemptions allowed subject to all just exceptions.

The applications stand disposed of.

CRL.M.C. 1562/2020

Vide the present petition, the petitioner seeks that the directions be issued to the learned Trial Court in relation to FIR No.848/2015, PS Kotla Mubarakpur to adjourn the final arguments in the matter at the request of the accused till the resumption of physical hearings in the learned Trial Court submitting to the effect that there has been a difficulty experienced by the learned counsel for the petitioner in addressing the final arguments through video conferencing.

Notice to the petition is issued to the respondents and is accepted by the learned APP on behalf of the State and by the learned counsel on behalf of the complainant.

On behalf of the petitioner, it has been submitted that the records of the case are bulky and that the counsel is not used to conduct the proceedings through Video Conferencing and that furthermore, there is difficulty sometimes in the Video Conferencing proceedings. It has further been submitted on behalf of the petitioner/applicant that the allegations levelled against the petitioner relate to the alleged commission of offence punishable under Sections 376/494/495/506 of the Indian Penal Code, 1860 with a minimum sentence prescribed for the offence punishable under section 376 IPC 1860 and that thus, it is not in the interest of justice that the hearing is taken up through Video Conferencing. It has also been submitted on behalf of the petitioner that the case i.e. SC No.1881/2016 is not one of the oldest cases and not even a 10 year old case pending before the learned Trial Court as also indicated vide proceedings dated 01.07.2020.

On behalf of the State, it has been submitted that time may be granted to the learned counsel for the petitioner to make submissions but the prayer to the extent seeking that the hearing be conducted only when physical Courts are resumed, ought not to be granted, in as much as, it is not known as to when the pandemic would end and when the Courts resume to functioning.

On behalf of the respondent no.2/ prosecutrix, learned counsel present places reliance on proceedings dated 01.07.2020 to contend that deliberate dilatory tactics are being adopted by the petitioner and that the prosecutrix has lost the prime of her life and needs to be rehabilitated and that furthermore, the case is already 5 years old; that the charge sheet has been filed on 06.02.2016 and the FIR had been lodged in the year 2015

and that the matter being pending at the stage of final arguments since the year 2019. It has further been submitted on behalf of the respondent no.2 that as observed vide proceedings dated 01.07.2020 repeated adjournments have been taken on behalf of the accused and that the learned counsel for the accused having been granted liberty to file written submissions with the Trial Court having observed to the effect that it would be unlikely that physical hearing in the courts may resume in the near future in view of the prevailing pandemic.

The proceedings of the date 01.07.2020 before the learned ASJ, Special Fast Track Courts, South East indicate that the matter was first re-notified for final arguments for 06.07.2020 at 1.30 pm, the date that has been fixed considering the convenience of all the stakeholders and that thereafter on 06.07.2020, part final arguments were addressed with the matter having been re-notified for remaining final arguments on the date 10.07.2020 at 1.30 pm i.e. today and 13.07.2020.

On a consideration of the submissions that have been made on behalf of either side, to the extent the prayer that has been made by the petitioner that the hearing of the matter in relation to SC No.1881/2016 in relation to FIR No.848/2015, PS Kotla Mubarakpur under Sections 376/494/495/506 of the Indian Penal Code, 1860 be deferred till the matter is taken up through physical hearing, cannot be granted, in as much as, the Courts are conducting proceedings through Video Conferencing at all levels inclusive of the Appellate stage both in the High Court and the Hon'ble Supreme Court.

However, in the interest of justice, through the submissions that have been made by the learned counsel for the petitioner whereby he submits that the entire Trial Court Record is presently not available with him, the entire copy of the Trial Court Record in the e-form be supplied by the Registry of the District Courts to the learned counsel for the

petitioner in relation to SC No.1881/2016 with a copy thereof being also supplied to the learned APP for the State as well as to the learned counsel for the complainant.

The parties are directed to put in appearance before the learned Trial Court at 1.30 pm today as already scheduled for the hearing with the directions to the learned Trial Court to defer the proceedings of the matter till the supply of the copy of the Trial Court Record in the e-form to the learned counsel for the petitioner.

No further directions are called for in the matter. The petition is thus, disposed of accordingly.

Copy of this order be also sent to the learned Trial Court and also to the learned District & Sessions Judge concerned to ensure the supply of the copy of the Trial Court Record in the e-form to the learned counsel for the petitioner and to the learned APP for the State as well as to the learned counsel for the complainant.

ANU MALHOTRA, J

JULY 10, 2020

'neha chopra'