

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

**CRM-M-10336-2021(O&M)
Date of decision:-4.3.2021**

Rahul Dada @ Inderjeet Roy

...Petitioner

Versus

State of Haryana

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Parveen Sharma, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

Petitioner Rahul Dada @ Inderjeet Roy, aged about 32 years, resident of House No.51/52, Pocket-6, Sector 25, Rohini, New Delhi has brought the instant petition under Section 482 Cr.P.C. praying for quashing of order dated 24.2.2021 passed by the Court of Additional Sessions Judge/Fast Track Court (POCSO), Panipat in case FIR No.383 dated 5.5.2019, under Sections 120-B, 370-A, 376, 506 IPC and Section 6 of Protection of Children from Sexual Offence Act, 2012, vide which the statement of prosecutrix/victim has been ordered to be recorded by way of video conferencing.

According to the petitioner, the testimony of prosecutrix/victim be recorded through actual physical presence to enable the petitioner/accused to defend himself in Court language and physical presence of prosecutrix/victim is required for her proper cross-examination and in case the impugned order is allowed to stand that

shall cause prejudice to the petitioner/accused in the trial.

Notice of the petition was given to respondent-State and Sh.Tanuj Sharma, AAG, Haryana appearing on behalf of the State is opposing the petition.

I have heard the learned counsel for the parties besides going through the record.

I do not find any illegality or infirmity in the impugned order. The prosecutrix/victim being a resident of Bangladesh, the trial Court considering the fact that earlier she had come to India without any valid passport and it would not be feasible to summon her physically for recording her deposition in the trial had directed that the prosecutrix/victim be examined by way of video conferencing. The operative part of the order runs as follows:

Having considered the rival submissions, this Court is of the view that the objections raised by Ld. Defence counsel are misconceived. The alleged omission on the part of the prosecution to submit translated versions of the documents in Bangla language is irrelevant and not connected to the examination of the victim through video conferencing. As already noted, Hon'ble High Court directed the trial court to make strenuous efforts to record the statement of the prosecutrix/victim before the next date of hearing before Hon'ble High Court which is 25.03.2021. The victim is residing in Bangladesh at present and the difficulty in bringing her to India during the present times when we are witnessing the outbreak of pandemic of Corona is understandable. Therefore, it would be more appropriate to let

the witness be examined through video conferencing. For the purpose of identifying the witness, the Investigating Officer be summoned to remain present on the date fixed. Moreover, the Investigating Officer is also directed through Ld. PP for the State to ensure the presence of a person well versed with both Bangla and Hindi/English language in order to facilitate the recording of evidence of the victim in case she is not well versed with any language (Hindi/English) other than Bangla. With these observations, the application at hand is allowed. The victim be summoned for the date fixed i.e 05.03.2021 for her examination through video conferencing.

The trial Court has taken adequate safeguards directing that Investigating Officer would remain present in the Court to identify the witness and he would ensure presence of a person well versed with both Bangla and Hindi/English language in order to facilitate the recording of evidence of the victim in case she is not well versed with any language (Jhindi/English) other than Bangla.

The apprehension expressed by the petitioner is without any basis.

Section 482 Cr.P.C. deals with inherent powers of the High Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

I find that the impugned order is detailed and well reasoned.

It does not appear to be suffering from any illegality or infirmity much less apparent on the face thereof. The order is certainly not perverse or passed in an arbitrary manner. There is no reason to interfere with the impugned order by way of exercising powers under Section 482 Cr.P.C.

Finding no merit in the petition, the same stands dismissed.

(H.S.MADAAN)
JUDGE

4.3.2021
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No