

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 1125 of 2021

Shukla Mondal @ Sumi
Vs.
State of W.B. & another

For the Petitioner : Mr. Kusal Kumar Mukherjee

For the State : Mr. Saswata Gopal Mukherjee, Ld.PP
: Mr. Arijit Ganguly

For the Union of India : Ms. Chandreyi Alam

Heard on: 17.05.2022

Judgment on : 17.05.2022

The Court:

This is an application challenging an order dated 19.03.2021 passed by the learned Additional Chief Judicial Magistrate, Bongaon, North 24 Parganas in connection with G.R. Case No. 3982 of 2017 under Sections 370, 371, 120B and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits as follows. The petitioner is a victim of human trafficking. She is a Bangladeshi national who was trafficked to India for the purpose of exploitation in the flesh trade. In connection with the present case, she was recovered on 09.12.2017. She was sent to Lilua Home at Howrah for safe custody on 10.12.2017. Since then she is in the protective custody of the said Home. In the meantime, a charge-sheet was submitted. But, the Investigating Agency could not apprehend the accused. While the accused are at large, the petitioner being the victim in this case, is languishing in protective custody. She wants to return to her own country. She had, accordingly, made an application for repatriation to her own country. However, by an order dated 19.03.2021, the learned Magistrate held that return of the victim girl at the stage would damage the chances of the trial in this case. This cannot be a ground to impair the liberty of the present petitioner.

Learned Public Prosecutor appearing on behalf of the State relies on a report dated 10.05.2022 filed earlier and submits as follows. The State would not come in the way if a direction is passed to grant liberty for repatriation of the victim girl to her own country. She can always come back with necessary documents to depose in the trial.

Learned counsel for the Union of India also supports the contention of the State and submits that the opposite party no.3

would not have any objection, if liberty is granted to have the victim lady repatriated to her country.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner, the State and the Union of India and have perused the revision petition.

It appears that the petitioner is the victim lady in a case under Sections 370, 371, 120B, 34 of the Indian Penal Code and Sections 3, 4, 5, 7 of the Immoral Traffic Act. She was allegedly trafficked to India for the purpose of commercial sexual exploitation. After her recovery on 09.12.2017, she had been kept in protective custody in a Home. At present, she wants to return to her own country.

Success in the trial cannot be a ground to stall repatriation of the victim lady to her own country. Afterall, she is a victim in this case and while the accused are at large, the victim is languishing in protective custody.

In view of the above and in the interest of justice, I partly set aside the order dated 19.03.2021 and direct that there shall be no impediment in having victim repatriated to her own country. Accordingly, necessary steps may be taken by the concerned authorities. However, the petitioner shall be at liberty to return to India upon carrying necessary travel documents and depose in the trial in question.

With these observations, the revisional application is disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

The parties shall act on the basis of copy of the order downloaded from the official website of this Court.

Let a copy of this order be sent down to the learned trial Court at the earliest.

(Jay Sengupta,J.)