

HIGH COURT AT CALCUTTA
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 3 of 2022

Dr. Shreya Roy

Vs.

State of West Bengal

For the Petitioner	:	Mr. Subhrojyoti Bhowmick Mr. Debajit Kundu
For the State	:	Mr. Aditi Shankar Chakraborty, Mr. Sourav Ganguly
Heard on	:	19.04.2022
Judgement on	:	19.04.2022

Jay Sengupta, J. :

This is an application challenging an order dated 18.12.2021 passed by the learned Judge-in-Charge, Special Court under POCSO Act, 2012, Siliguri, Darjeeling, in POCSO Case No. 41 of 2020.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case. Although she was falsely framed in the present case with an allegation under Section 315 of the Indian Penal Code, actually she was not the real culprit. That is why it is more important that either all the documents referred to under Section 207 of the

Code be supplied to her or a proper inspection of the said documents is allowed at the earliest. This would minimize the chance of further tampering of evidence. The petitioner was not provided copies of the Register of the Nursing Home, the O.T. Register and some other relevant documents. She was also not given the CCTV footage of a duration of about 48 hours that was referred to in the charge sheet. More than a single day's time would be required to go through the same if only inspection is allowed. Accordingly, the petitioner made an application before the learned Trial Court for supply of the same. By an order dated 18.02.20221, the learned Trial Court passed a direction permitting the learned counsel for the accused petitioner to inspect the relevant documents in the presence of the learned Public Prosecutor and the Investigating Officer of the case. However, copies of documents have not been supplied because these are voluminous in nature. As the content of some portions of such documents which are very technical in nature may be understood better by the petitioner than by her learned advocate, the presence of both the petitioner and her learned advocate is required at the time of such inspection. Moreover, the learned Public Prosecutor in charge of the present case is not co-operating with a defence in having necessary rights available to the defence exercised.

Learned counsel appearing on behalf of the State submits as follows. Since the documents are voluminous in nature, a direction was given by the learned Trial Court only to inspect the same. Section 207 of the Code provides that either the accused in person or the pleader can inspect such documents. Accordingly, permission was granted to the learned advocate for the petitioner

to inspect the documents. It is germane to mention that CCTV footage cannot be given to the accused because it might involve an image of the victim girl who is a minor. However, the CCTV footage available may not be relied on by the prosecution during the trial. The State shall co-operate in every possible way so that the inspection is done at the earliest.

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

As was laid down by the Hon'ble Apex Court in the case of Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi) reported in (2010) 6 SCC 1, in contradistinction to the provision of Section 173, where the Legislature has used the expression 'documents on which the prosecution relies' are not used under Section 207 of the Code. Therefore, the provisions of Section 207 of the Code will have to be given liberal and relevant meaning so as to achieve its object.

Therefore, it is quite obvious that since the CCTV footage has been referred to in the charge sheet, whether the same is relied on by the prosecution or not, either a copy of the same has to be given to the accused or the accused should be permitted to inspect the same. In the present case the CCTV footage might involve depiction of the minor victim girl. Therefore, no copy of the same could be given to the accused. However, a proper inspection of the CCTV footage has to be allowed.

Since the other documents in question are voluminous in nature, the learned advocate of the accused was allowed to inspect the same.

Had the documents not been voluminous, the same could have been easily supplied to the accused. However, the same cannot be done for which the petitioner is not responsible. There is also some merit in the contention of the petitioner that some of such documents might involve technical issues which could best be understood by her as a doctor.

Therefore, in the interest of justice, it would be expedient to allow both the petitioner as well as the learned advocate to inspect the said documents including the CCTV footage, albeit in the presence of the learned Public Prosecutor and the Investigating Officer of the case.

The impugned order is modified to the following effect.

- i) The inspection of such documents including the CCTV footage should be allowed not only to the learned advocate for the accused petitioner, but also to the accused herself. Both of them shall be permitted to inspect such documents in a span of four consecutive dates in the month of May, 2022 as would be fixed by the learned Trial Court.
- ii) The inspection shall be done in the presence of the learned Public Prosecutor and the Investigating Officer of the case.
- iii) The State shall render all assistance to the parties in effecting such inspection.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

Sl.15/SB