

13.12.2024  
Item. 11  
BR

**CRR 110 of 2023**  
**Prafulla Kar**  
**-vs-**  
**The State of West Bengal & Ors.**

Mr. Ankit Agarwala,  
Ms. Alotriya Mukherjee  
**.... For the petitioner**

Mr. Dhiraj Trivedi,  
Mr. Manabendranath Bandyopadhyay  
Mr. Sunil Gupta  
**.... For the U.O.I.**

1. The present revision has been preferred praying for setting aside of the order dated 1<sup>st</sup> December, 2021 passed by the learned Additional, District and Sessions Judge, Chandannagar, Hooghly in S.C. (SPL) case No. 49 of 2021 arising out of Tarakeshwar Police Station Case No. 58 of 2021 dated 6<sup>th</sup> April, 2021 under Sections 341/354/511/509 of the Indian Penal Code and adding Section 10 of the Protection of Children from Sexual Offences Act, 2012 (The State of West Bengal –vs- Parsharam Apaso Chavan).
2. By the order under revision the learned Additional District and Sessions Judge, Chandannagar, Hooghly in SC (SPL) 49/2021 passed an order as follows :-

*“.....That the petition filed by the petitioner D.I.G. (Headquarter), F.H.O.,*

*B.S.F. praying for staying of the proceeding initiated before this Court against this accused and forwarding the requisites documents to the petitioner be and the same is considered and allowed in part on contest.*

*Accordingly, the instant case being S.C. (Spl) case no. 49/2021 initiated by this Special Court against this accused Parsharam Apaso Chavon is hereby stayed until the receipt of the report of the proceeding which will be initiated or instituted against the accused by the B.S.F. authority.*

***B.S.F. authority is directed to give the intimation about the fate of the proceeding instituted in the B.S.F. Court against this accused to this Special Court.*** That the B.S.F. authority may apply for certified copy of judicial records according to law and if necessary according to law any other necessary documents may be called for production after the due compliance with the law and procedure and not otherwise. Thus, this petition hereby stands disposed of.

*Let a copy of this order be sent to the D.I.G. (Headquarter), F.H.O., B.S.F. for information and taking necessary action.*

***To 29.01.2022 for awaiting result of the B.S.F. Court initiated against the accused.....”***

3. It appears that the de facto complainant without waiting for the submission of report before the learned Additional Sessions Judge approached this Court praying for setting aside of that order.
4. It appears that by the said order under revision learned Additional Sessions Judge was right in calling for a status report about the fact of the proceedings instituted by the Border Security Force Court in respect of the accused before the Special Court.

5. Learned senior counsel Mr. Trivedi appearing for the Union of India, has placed a report enclosing relevant documents, wherein it appears that the relevant extract is as follows :

*“BSF has all the necessary infrastructure to conduct trials under POCSO Act, 2012. Recently, a BSF personnel, namely ASI/GD Tej Ram who had molested and sexually assaulted a minor girl , while performing duties at BOP Kanaikathi, Distt-North 24 Parganas (W.B.) was tried by GSFC w.e.f. 25.03.2022 to 06.04.2022 for committing offences under Two charges under Section 46 of the BSF Act, 1968. The First charge was for **“Committing a civil offence, that is to say, aggravated penetrative sexual assault on a child, punishable under Section 6 of the Protection of Children From Sexual Offences Act, 2012”** and the second charge was for **“Committing a civil offence, that is to say, aggravated sexual assault on a child, punishable U/Sec 10 of the Protection of Children from Sexual Offences Act, 2012”**. After due appraisal of the evidence on record, the GSFC found the said BSF personnel ‘Not guilty’ of ‘first charge’ and recorded a special finding and found the said BSF personnel ‘Guilty’ of the charge of causing aggravated sexual assault punishable*

*U/Sec 10 of the POCSO Act, 2012 and also found 'Guilty' of the 'second charge' and sentenced him **"to suffer imprisonment for five years"; "to be dismissed from service"; and "to suffer fine of rupees one lac"**. After confirmation of the findings and sentence of the GSFC by the confirming authority, the said BSF personnel sent to Alipore Central Jail (Baruipur Central Correctional Home), Chakarbri Road, Chakar Bar (W.B.), for execution of sentence awarded by the GSFC.*

**Sd/-**

**(Siddharth Sharma)**

**LO Gde-II/DC**

**FTR HQ BSF SOUTH BENGAL"**

- 6.** The said report has been filed as per direction of this Court. The direction appears to be similar to the direction as passed by the learned Additional Sessions Judge.
- 7.** Accordingly, the revisional application is disposed of with the direction that the opposite party no. 3 herein, shall file the report placed before this Court today, before the learned Special Court who shall then proceed with the hearing and pass an order in accordance with law, considering the materials placed before it including the report and on hearing both sides.
- 8. According CRR 110 of 2023 stands disposed of.**

- 9.** All applications connected thereto stand disposed of.
- 10.** Interim order, if any, stands vacated.
- 11.** Let a copy of the order be sent to the learned trial Court for compliance.
- 12.** Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

**( Shampa Dutt (Paul), J. )**