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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 3087/2024, CRL.M.A. 29874/2024 & CRL.M.A. 29875/2024

PHULMAI TAMANG ALIAS NEHAPetitioner

Through: Mr. Deepak Kumar Singh, Advocate.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Sanjeev Bhandari, ASC

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
04.10.2024

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1. The instant petition under Article 226 of the Constitution of India, 1950 and under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" hereinafter) has been filed on behalf of the petitioner seeking the following reliefs:

"A. Allow the present petition and consequently quash/set-aside the impugned orders dated 09.09.2024 and 11.09.2024 as passed in the case titled as "Sate vs. Neha SC 755/2017, FIR No. 186/17, P.S. Kamla Market" by the Hon'ble Court of Sh. Balwinder Singh, ASJ(FTSC) (POCSO)-01, Central, Tis Hazari Courts, Delhi.

B. Call for the records of the case titled as "Sate vs. Neha SC 755/2017, FIR No. 186/17, P.S. Kamla Market" pending before the Hon'ble Court of Sh. Balwinder Singh, ASJ(FTSC) (POCSO)-01, Central, Tis Hazari Courts, Delhi.

C. Pass such other order or further orders as are deemed to be appropriate in the facts and circumstances of the present case and in the interest of justice."

2. Learned counsel appearing on behalf of the petitioner submitted that



the learned Trial Court erred in appointing a Nepalese language translator/ interpreter, for assisting PW-11, who is the alleged victim in the instant case, in her cross-examination as it is evident from the records that the statement under section 164 of the Code of Criminal Procedure, 1973 (hereinafter as the “Code”) before the learned Magistrate was recorded in Hindi language, thereby indicating that she is well-versed with the same. It is further submitted that the credibility and impartiality of the translator is in question as the same is allegedly been tutored by one Ms. Santosh Sedhai, who has already deposed as PW-3 in the instant case, thereby manipulating the proceedings before the learned Trial Court.

3. Learned APP appearing on behalf of the State vehemently opposed the instant petition and submitted that the learned Trial Court was right in appointing the said translator i.e., Ms. Sailta Khulal Chettri for assisting PW-11 in her cross-examination, given that PW-11 is a Nepalese national and does not understand either Hindi or English languages. It is further submitted that there arises no question of credibility and impartiality of the said translator and therefore, the learned Trial Court rightly dismissed the petitioner’s prayer for the appointment of another translator/ interpreter for further cross-examination of PW-11.

4. After some length of arguments, learned counsel for the petitioner submitted that he is unwilling to press the instant petition at this stage and makes an innocuous prayer to direct the learned Trial Court to permit the petitioner to cross-examine PW-11 as the same has already been closed before the learned Trial Court *vide* order dated 11th September, 2024.

5. Learned APP appearing on behalf of the State raised no objection to the innocuous prayer made by the learned counsel for the petitioner.



6. Heard learned counsel for the parties and perused the records.
7. Since the learned counsel for the petitioner is not willing to press the instant matter any further and by taking into consideration the innocuous prayer made on behalf of the petitioner as well as the no objection raised by the respondent with respect to the said prayer, this Court is inclined to allow the innocuous prayer made on behalf of the petitioner, thereby directing the learned Trial Court to give an opportunity to the petitioner to cross-examine PW-11 in the presence of Ms. Sailta Khulal Chettri, the translator therein.
8. Therefore, in light of the same, the order dated 11th September, 2024 is set aside only to the extent of closing the right of the petitioner to cross-examine PW-11 with respect to the aforesaid context. Furthermore, the learned Trial Court is hereby directed to not to grant any unnecessary adjournments to either of the party.
9. In view of the aforesaid directions, the instant petition, along with pending applications, if any, is disposed of.

CHANDRA DHARI SINGH, J

OCTOBER 4, 2024

Rk/mk

[Click here to check corrigendum, if any](#)