



CRM-M-986-2024 (O&M) -1-

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

CRM-M-986-2024 (O&M)
Date of Decision:- 17.03.2025

NIPUN KHUNGER ...Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER ...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sandeep Khunger, Advocate for the petitioner.
Mr. Malkit Singh Dhillon, DAG, Punjab.
Mr. Manthan Pathania, Advocate for Mr. B.S. Bajwa,
Advocate for respondent No.2.

AMARJOT BHATTI, J.

CRM-7071-2024

Learned counsel for applicant/petitioner has filed an application for placing on record reply on behalf of respondent No.2.

Learned counsel for State and learned counsel for petitioner submit that they have no objection to the application for placing on record the reply.

In view of this, application is allowed and accompanied reply is taken on record.

Main case.

1. Petitioner Nipun Khunger has filed instant petition under



Section 482 of Code of Criminal Procedure for quashing of order dated 18.11.2023 (Annexure P-4) passed by Additional Sessions Judge, Fast Track Special Court, POCSO, Fazilka in FIR No.89 dated 05.08.2017 under Sections 354/354-C, 354-D and 509 IPC registered at Police Station City Fazilka in a case titled as “State Vs. Nipun” whereby revision preferred by respondent No.2/prosecutrix – ‘M.S.’ @ ‘M.K’ was allowed and the order dated 11.07.2022 passed by learned Chief Judicial Magistrate, Fazilka was set aside, allowing the victim to appear through video conferencing. Feeling aggrieved of this order, present petition has been filed.

2. Learned counsel for petitioner argued that respondent No.2/prosecutrix was married with Madhur Khunger, brother of present petitioner. Due to matrimonial dispute, false FIR has been lodged against present petitioner who is facing trial in the aforesaid case. Petitioner is Veterinary Doctor and is happily married, having two children. In the aforesaid FIR, during the pendency of trial, respondent filed application for recording of her evidence through video conferencing which is Annexure P-1. Said application was opposed by present petitioner by filing reply (Annexure P-2). After hearing arguments, application filed by respondent No.2/prosecutrix was declined vide order dated 11.07.2022 (Annexure P-3) and it was observed that complainant was required to appear in the Court to give her testimony since certain documents were to be exhibited. Allegations detailed in the application were without any basis. She filed revision against said order dated 11.07.2022 which was allowed by passing impugned judgment dated 18.11.2023 (Annexure P-4). It is argued that testimony of respondent No.2/prosecutrix can be recorded only as per



‘Model Rules’ on video conferencing detailed in Punjab and Haryana High Court Rules and Orders, Vol.-V, Chp.1-H. Learned Additional Sessions Judge, Fast Track Special Court, POCSO, Fazilka, while passing impugned order dated 18.11.2023, has not referred to the Rules under which statement of respondent No.2/prosecutrix was to be recorded through video conferencing. Therefore, impugned judgment dated 18.11.2023 requires modification.

3. On the other hand, learned counsel representing respondent No.2 pointed out that there is threat to the life and modesty of respondent No.2/prosecutrix who at present is residing in Varanasi. There was no effort on the part of respondent No.2 to delay the proceedings of the trial. Considering the threat perception she requested the trial Court that her statement be recorded through video conferencing facility. Impugned judgment dated 18.11.2023 (Annexure P-4) passed by learned Additional Sessions Judge, is on sound footing and the same does not require any interference.

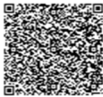
4. So far as, learned counsel representing State is concerned, he has confirmed the aforesaid factual position vide which respondent No.2 has been permitted to depose in the aforesaid trial through facility of video conferencing.

5. I have considered the arguments advanced by learned counsel representing the petitioner as well as learned counsel representing respondent No.2 assisted by learned State counsel. Trial in this case is pending since long. Present petitioner is facing trial in FIR No.89 dated 05.08.2017 under Sections 354/354-C, 354-D and 509 IPC registered at



Police Station City Fazilka. It is not disputed that respondent No.2 is the victim in the aforesaid FIR who is required to appear before the trial Court for giving her testimony. Present petitioner is the brother-in-law of respondent No.2, being brother of her husband. Respondent No.2 apprehended threat to her life and modesty and on that account she prayed that her statement be recorded through video conferencing by filing application (Annexure P-1). It is not disputed that at present she is residing at Varanasi whereas trial is going on at Fazilka. From the contents of application, it is evident that respondent No.2 wants to appear before the trial Court for giving her testimony but through video conferencing which was earlier declined by learned Chief Judicial Magistrate, Fazilka vide order dated 11.07.2022. Revision preferred by respondent No.2 was allowed and she was permitted to appear before the trial Court through video conferencing. It is rightly observed by learned Additional Sessions Judge, Fast Track Special Court, POCSO, Fazilka that respondent No.2 comes in the category of vulnerable witness. Considering the nature of allegations and apprehension expressed in the application, revision preferred by respondent No.2 was rightly accepted.

6. In the light of aforesaid facts and circumstances, I do not find any illegality or irregularity committed by learned Additional Sessions Judge, Fast Track Special Court, POCSO, Fazilka while allowing revision preferred by respondent No.2/prosecutrix for recording statement of respondent No.2 through video conferencing as per Rules. Consequently, findings no merits in the present petition, same is declined.



7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

17.03.2025
snd

Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No