

ITEM NO.1 Court 8 (Video Conferencing)

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SMW (C)No.4/2020

IN RE: CONTAGION OF COVID 19 VIRUS IN CHILDREN PROTECTION HOMES

(with applns. for Appropriate orders/directions, exemption from filling affidavit, exemption from paying court fee, intervention and intervention/impleadment)

WITH

W.P.(Cr1.) No.274/2020 (PIL-W)

(with appln. For grant of interim relief)

Date : 21-01-2021 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE S. ABDUL NAZEER

HON'BLE MS. JUSTICE INDU MALHOTRA

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UPON hearing the counsel the Court made the following
O R D E R

On 01.12.2020, directions were issued to the States of Assam, Bihar and West Bengal to provide the necessary infrastructure for Video Conferencing facilities to enable the recording of testimonies of children who are either victims/ witnesses in human trafficking cases.

The learned Amicus Curiae after consulting Ms. Anitha Shenoy, learned senior counsel appearing for the petitioner and advocates on record for the three states mentioned above submitted a note in which he proposed recording of evidence of child witnesses in two cases. The first case relates to FIR No.20/2019 pending in POCSO Court-2, Jaipur in which there are four child witnesses and four parents of the said child witnesses who are residents of Gaya, Bihar. The learned Amicus Curiae verified the availability of infrastructure at Jaipur with the assistance of the

Registrar of the Rajasthan High Court, Chief Metropolitan Magistrate-1, Jaipur, Mr. Rakesh Maharshi Public Prosecutor, Mr. Ankur, System Officer. The learned Amicus Curiae has also obtained instructions from the Registrar, Patna High Court and the other concerned officers about the availability of infrastructure and internet connectivity at District Court, Gaya.

The learned Amicus Curiae also participated in a trial run which was held on 19.01.2021 and he is satisfied with the facility at Gaya District. We are informed that trial is ripe in the said case pending in POCSO Court-2, Jaipur. As suggested by the learned Amicus Curiae, we direct District Judge, Gaya and the Presiding Officer of POCSO Court-2, Jaipur to record the evidence of the four child witnesses and the four parents of the witnesses of the child witnesses through video conferencing. The District Judge, Gaya is directed to make available a room meant for examination of vulnerable witnesses in the court compound on the dates and time fixed by the POCSO Court-2, Jaipur for recording the evidence of eight witnesses.

Summons may be sent by POCSO Court-2, Jaipur through the process server, District and Sessions Court Gaya to the witnesses to appear before the

Secretary, DLSA, Gaya on the date fixed for recording the evidence along with documents to prove their identity. Mr. Syed Ahmed, Additional District Judge (retired) shall act as the Remote Point Coordinator at Gaya and verify the identity documents of the witnesses. The Remote Point Coordinator is directed to render necessary assistance to the witnesses in case of any difficulty in the recording of evidence of the witnesses by Video Conferencing. An honorarium of Rs.1,500/- per day shall be paid to the Remote Point Coordinator by Bihar State Legal Service Authority.

The Presiding Officer POCSSO Court-2, Jaipur shall ensure that the computer in the Court is placed in such a position that the witness can be seen by him, the prosecutor and the defense counsel. In case, there is a need for identification of the accused, the camera of the witness shall be switched off and the screen be turned to the accused person to enable the witness to identify him.

On completion of recording of evidence, the deposition shall be sent by POCSSO Court-2, Jaipur on e-mail to the Secretary, District Legal Service Authority, Gaya who shall take a print out, read it out and explain to the witnesses about the contents. The Secretary, District Legal Service Authority shall get the deposition signed by the witnesses. The

Remote Point Coordinator is directed to put his signatures on the deposition, scan the same and send it back to the Presiding Officer POCSO Court-2, Jaipur by e-mail. In addition, the original deposition shall be sent by speed post.

Another case identified by learned Amicus Curiae for recording of evidence by video Conferencing pertains to FIR No.612 of 2018 P.S. Khajuri Khas, Delhi. In the said case, the Court Point is the Additional Sessions Court Karkardooma and the Remote Point is Sitamarhi, Bihar where the child witnesses are residing. The directions issued in respect of the case pending before the POCSO Court-2, Jaipur shall be applicable to the recording of evidence by Video Conferencing to be held by Additional Sessions Judge Karkardooma Court with the necessary modifications which are mentioned below:

The learned Amicus Curiae has contacted Mr. Krishna Nand Kumar, Retired District Judge who has agreed to act as Remote Point Coordinator. We are informed that the recording of evidence is required under the relevant rules in Delhi. We dispense with that requirement in this case. If the Remote Point Coordinator is not available on the day of the evidence of the witnesses being recorded for any

reason, the Secretary, District Legal Service Authority shall act as the Remote Point Coordinator. We direct the Presiding Officer, POCSO Court-2, Jaipur and the Additional Sessions Judge, Karkardooma Court to complete the recording of evidence of the witnesses through Video Conferencing in the criminal cases arising out of FIR No.20 of 2019 P.S. Galatgate, Jaipur and FIR No.612 of 2018 P.S. Khajuri Khas, Delhi respectively, within a period of 8 weeks.

Vide order dated 1.12.2020, we directed all the State Governments to provide information relating to the number of child victims/witnesses of human trafficking who are required to depose in courts which are far away from the place of their residence in a different State. The learned Amicus Curiae submits that only 12 states have filed their affidavits. However, they did not furnish the details sought by this Court. The States which have not responded are directed to furnish the information sought for as mentioned above within a period of four weeks. The States which have filed their affidavits without giving particulars are also directed to file additional affidavits giving the details of the child witnesses/victims of human trafficking. We are informed by the learned Amicus Curiae that National Crime Records Bureau would be having the information

relating to the number of child victims/witnesses of human trafficking.

Mrs. Aishwarya Bhati, learned ASG undertakes to obtain instructions from the NCRB and provide the required information to this Court within a period of four weeks.

List this matter on 18.03.2021.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master