

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION NO. 9973 of 2019****With****CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2020****In R/SPECIAL CRIMINAL APPLICATION NO. 9973 of 2019**=====

JANARDHANA RAMKRISHNA SHARMA**Versus****STATE OF GUJARAT**

=====

Appearance:

PRITESH M SHAH(8405) for the Applicant(s) No. 1

MR YOGESH LAKHANI, SR. ADV

with MR. RAHUL R DHOLAKIA(6765) for the Respondent(s) No. 7

MR BB NAIK, SR. ADV. for the Respondent(s) No. 8,9

NOTICE SERVED BY DS for the Respondent(s) No. 2,3,4,5

MS JIRGA JHAVERI ADDL. PUBLIC PROSECUTOR for the Respondent(s)

No. 1SERVED BY AFFIX(N) for the Respondent(s) No. 6

=====**CORAM:HONOURABLE MS. JUSTICE SONIA GOKANI**

and

HONOURABLE MRS. JUSTICE MAUNA M. BHATT**Date : 09/03/2022****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)**

1. Let the Central Government be made the party in this matter. The same should be carried out today itself.

2. We have on 28.2.2022 passed the following order:

“1. Today, the affidavit of both the corpora – daughters of the petitioner have come on record.

2. We could notice that they have been

categorical that if the Court insists on their appearance, they would appear in Indian Permanent Mission to the United Nations along with the representative of the United Nations Commission on Human Rights (UNCHR) and with the US lawyer, without revealing their present place of abode and without pointing out as to why there is this insistence to appear at the United Nations.

3. On the last occasion we had requested learned senior Counsels to speak to the girls, today, learned Senior Advocate Mr. Lakhani has submitted that in presence learned Senior Advocate Mr. Naik he has attempted to speak to the girls and the conversation went on for about 30 minutes. They have disclosed that since no proper treatment was given by the office of the Indian Consulate General and their passports were taken away and while leaving, someone was following them as per their perception, they once again apprehend the same. He also further stated that they appeared not to be under captivity and they did not disclose their location for the purpose of safety and security. They also conveyed that there was no protection order earlier when they appeared before the Consulate General, but, now even if the Court passes such order, they would rather appear through the medium of the United Nations as stated

by them in their affidavit presented today.

3.1. According to learned Senior Advocate Mr. Naik, their apprehension is from the father and there are serious allegations which are being strongly resisted by learned advocate Mr. Pritesh Shah.

4. Without entering into any of them, on the aspect of their insistence to appear from USA at Indian Permanent Mission to the United Nations, let a copy be given to learned Senior Standing Counsel Mr. Amin. Matter shall be posted on 03.03.2022. Learned ASG shall address the Court on this aspect of affidavit.”

3. On 3.3.2022 with the request of learned Central Government Standing Counsel Mr. Amin, we decided to post the matter today.

4. Today the learned ASG has addressed us and also explained the procedure that needs to be followed with the country with which we have agreement of reciprocity, Jamaica is one of them and therefore according to these, the detail form which needs to be filled in will be a mandatory requirement. Once done in about 8 to 10 weeks' time, the person concerned shall be produced before the Court through video conference for the purpose of evidence or for any other purpose as the Court may direct. He has also further after verifying from the Indian High Commission has submitted that nothing has been done for even causing an apprehension in

mind of any one. Moreover, the Blue Corner Notice has also been dropped and therefore, an additional reason for the girls not to be worried or apprehensive of.

5. Let the procedure be initiated at the part of the State Government. It will be a senior Officer not below the rank of Superintendent of Police as may be directed by the office of Director General of Police who shall coordinate with the Mr. M.K. Chahar, Under Secretary to the Govt. of India, Internal Security-II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand, National Stadium, New Delhi.

5.1. We have also chosen to reflect the name of the Under Secretary after consulting the learned Central Govt. counsel to expedite the process. Once these forms are duly filled in, they shall be sent as required under the agreement of reciprocity and the detailed guidelines dated 4.12.2019 shall follow.

6. It is further ensured by the learned ASG that while this process is on, if the girls choose to appear before the Indian High Commission, necessary protections shall be made available to them and in no manner they need to feel apprehensive. Learned senior counsel Mr. B.B.Naik who represents these girls may also convey this aspect so that they can appear before this Court through video conference at Indian High Commission in the interregnum before the period of completing this process is over.

7. We remind all concerned that once there is direction from the Court, more particularly, of the appearance through video conferencing without insistence on physical presence

both the girls being Indian citizen although presently at Jamaica, are bound by such directions with the assurance having come from the Central Government and when with a specific direction apprehension of safety and personal liberty which is duly taken care by this Court, let the compliance be made at the earliest.

8. We notice that much time has gone into pursuing this matter which is undesirable. Non compliance of Court's direction may also give rise to serious consequences, spelling out of which may not be necessary at this stage.

9. The matter is presently now posted on 7.4.2022.

10. Let the office of learned ASG intimate the Indian High Commission that in the interregnum if the girls choose to appear before this Court in wake of this protective order without waiting for the period stipulated under the agreement of reciprocity necessary protection be availed to enable them to present themselves.

11. It is also expected that Corpora may not leave Jamaica without intimation to the Court.

(SONIA GOKANI, J)

(MAUNA M. BHATT, J)