

**SYNOPSIS**

The present Special Leave Petition has been preferred against order dated 07.11.2019 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Application filed u/s 482 CrPC by the Respondent No. 2 Chinmayanand (Swami) alias Krishna Pal Singh, whereby the High Court has allowed the Crl. Misc. Application and held that the respondent no. 2 Chinmayanand is entitled get the certified copy of the statement of the victim (Petitioner herein) recorded under Section 164 CrPC. The High Court has not even bothered to notice at what stage the matter is and that whether cognizance has been taken by the court concern.

The High Court completely ignored the directions issued by this Hon'ble Court in rem in the matter of ***State of Karnataka v/s Shivanna @ Tarkari Shivanna (2014 (8) SCC 913***), by observing that the said directions were issued by this Hon'ble Court only for the police to be followed and not to the court. The relevant direction in Shivanna's case is reproduced hereunder for ready reference :-

**"10.1.** Upon receipt of information relating to the commission of offence of rape, the investigating officer shall make immediate steps to take the victim to any Metropolitan/preferably Judicial Magistrate for the purpose of recording her statement under Section 164 CrPC. A copy of the statement under Section 164 CrPC should be handed over to the investigating officer immediately with a specific direction that the contents of such statement under Section 164 CrPC should not be disclosed to any person till charge-sheet/report under Section 173 CrPC is filed."

The High Court on the contrary placed reliance upon judgment of the same High Court in ***Raju v/s State of U.P. & Ors., reported in 2012 LawSuit (All) 723*** to say that "It was

bounden duty of Trial Court to provide a certified copy of the statement of the victim recorded under section 164 CrPC, to the applicant subject to payment of usual charges”.

In Raju’s case (supra), the Division Bench of Allahabad High Court, relied upon to earlier two judgements of the same High Court, which are

- (i) *Bashiruddin and Anr. v/s Emperor (AIR 1932 All 327)* ;**
- (ii) *Shankar Lal and Ors. v/s The State (AIR 1954 All 779).***

and held that “...that no person, who is entitled to a copy of the statement under Section 164 CrPC, could be denied the required copy of the said document if he is ready to pay the cost admissible under rules of the court”. True copy of judgements being (i) Bashiruddin and Anr. v/s Emperor (AIR 1932 All 327); (ii) Shankar Lal and Ors. v/s The State (AIR 1954 All 779) and Raju v/s State of U.P. & Ors., reported in 2012 LawSuit (All) 723, dated 08.05.2012 passed by the Allahabad High Court in Crl. Misc. WP No. 3567/2012, is annexed herewith and marked as **Annexure P-1, P-2 & P-3, respectively.** (Pg. )

Both the above cases are prior to the amendment of the Code of Criminal Procedure in 1973, which means both the above cases deal with the Code of Criminal Procedure, 1898. The 1898 CrPC has seen an overhaul change by way of the Criminal Procedure Code, 1973. Even otherwise the approach of the courts and interpretation of these mandatory provisions have seen a sea change. After the December, 2012 horrifying rape incident in Delhi, which is broadly referred to as NIRBHAYA’S case, further amendments have been brought in the Code of Criminal Procedure, particularly in Section 154 and 164 CrPC.

Post 2013 amendment, Section 154(1) and Section 164(5A) CrPC, require that in cases relating to sexual harassment/assault and of rape and insult to the modesty of a women, statement of the victim shall be recorded by a Judicial Magistrate as soon as possible. Sub-section 6 of Section 164 CrPC requires that a Magistrate recording a confession or a statement under Section 164 CrPC shall forward it to the Magistrate by whom the case is to be enquired into or tried.

The High Court order is erroneous and per incuriam to the mandate of section 207 and 208 of Code of Criminal Procedure, 1973 and the very object and purpose of recording statement of a victim of sexual assault/rape by a Judicial Magistrate and to be kept by the Judicial Magistrate dealing with the matter.

The High Court has erred in relying upon the age old judgments which were dealing with Code of Criminal Procedure, 1898 (now repealed), wherein the whole chapter XVIII (sections 206-220), relating to inquiry into cases triable by the court of sessions or high court division was omitted.

In the 1973 CrPC, we have section 207-208 which precisely deals with supply of documents to the accused. Section 207 (iv) precisely deals with supply to the accused of the statement under section 164 CrPC. It is pertinent to mention here that the powers under section 207 and 208 can be exercised by the Magistrate after commencement of the proceedings under Chapter XVI of the CrPC, which means after taking cognizance of an offence by the Magistrate concern.

It is thus clear that for the purpose of copy of statement of the victim recorded under section 164 CrPC, there is a pre-

condition that the charge-sheet has been filed and cognizance has been taken by the Magistrate. This requirement of law has not been noticed by the High Court of Allahabad either in Raju's case or in its two earlier judgments of the year 1932 and 1954. All these 3 judgements have only discussed the right of the accused to have the copy in view of the fact that the statements recorded under S. 164 CrPC are part of judicial record and the same cannot be denied to the accused if he is ready to pay the cost as per rules. These judgments have not at all discussed that at what stage of proceedings the statement can be given to the accused.

The petitioner is not for a moment suggesting that the accused is not at all entitled to get copy of the statement of the victim recorded under S. 164 CrPC. What is crucial is, at what stage the accused becomes entitled for the statement of the victim under section 164 CrPC and for that matter the statements recorded under S. 161 CrPC and/ or any other document which is part of case diary.

None of the above referred three judgements as have been relied upon by the High Court and not even the impugned order do refer to the stage at which the 164 CrPC statement can be given to the accused. A bare reading of the scheme of chapter XVI- Section 206-210 (Commencement of proceedings before Magistrate) of Code of Criminal Procedure, clearly provides that such occasion arises only after cognizance is taken by the Magistrate concerned. In Shivanna's case also, this Hon'ble Court has clearly directed that a copy of the statement under Section 164 CrPC should be handed over to the investigating officer immediately with a specific direction that the contents of such statement under Section 164 CrPC should not be disclosed to any person till charge-sheet/report under Section 173 CrPC is filed.

It is also worth noting here that in the present case the Crl. Misc. Application was listed before the High Court on 05.11.2019, wherein the complainant or the victim (petitioner herein) was not impleaded as party respondent. The government advocate appeared on advance notice and sought time to seek instructions. The matter was directed to be listed on the very next date i.e. on 06.11.2019, though it came to be listed on 07.11.2019, whereon the learned government advocate conceded that statement of the victim recorded under Section 164 CrPC ought to have been given to the accused/respondent no. 2 Chinmayanand (Swami) herein and that the Trial Court has erred in refusing to give the copy. Thus the Criminal Misc. Application was allowed in a fast track mode, just in two days, that too unopposed.

Here, few facts are very important to be mentioned. The petitioner is a law graduate and has now been enrolled as an Advocate with the Bar Council of Uttar Pradesh. She has studied a five years LL.B. course from S.S. Law College, Shahjahanpur. While pursuing her LL.M. course from the same college, she was raped, sexually abused by the respondent no. 2 Chinmayanand (Swami) @ Krishna Pal Singh who happened to be the Chairman of the Managing Committee of not only S.S. Law College but of rest of the four Colleges and schools situated in the premises of Mumukshu Ashram, Shahajahanpur. Chinmayanand (Respondent no. 2) is head of all the institutions and the ashram and has very telling clout and influence of power and high contacts.

The petitioner was raped and sexually abused for almost a year by none other but head of the institution she was pursuing her Master's Degree. She finally could escape in August, 2019 with the help of co-students and friends. She had also been able to make some videos of her sexual harassment. While on run to save her life, the petitioner uploaded a video on her facebook account seeking help which

became viral and several online news portals reported the incident. Few lawyers of Supreme Court apprehended threat to the life of the petitioner and therefore filed a letter petition before this Hon'ble Court.

This Hon'ble Court was kind enough to take suo moto action on the letter petition and the petitioner was directed to be produced before this Hon'ble Court. This Hon'ble Court heard the petitioner in camera. This Hon'ble Court noted that the petitioner does not intend to go back to Uttar Pradesh till she meets her parents in Delhi and talk to them. In view of this, this Hon'ble Court directed the parents of the petitioner to be brought to Delhi under security of Delhi Police and the petitioner was provided a shelter in Delhi under orders of this Hon'ble Court.

In the second order, this Hon'ble Court noted that the petitioner has certain grievances against the institution and also the management. The parents have certain apprehension about their safety. This Hon'ble Court thus directed a Special Investigation Team (SIT) headed by Inspector General of Police to be constituted to enquire into grievances expressed by the petitioner and the apprehensions expressed by her parents about their safety in U.P. Upon being pointed out by the learned Additional Solicitor General that two FIRs have been lodged in the case, this Hon'ble Court directed the SIT to take note of both the FIRs and proceed with the investigation. This Hon'ble Court also requested the Chief Justice of High Court of Judicature at Allahabad to constitute a bench to monitor the investigation in this regard.

Before leaving for Shahjahanpur (her home town), the petitioner made a detailed complaint to the Lodhi Road Police Station, Delhi, naming the respondent no. 2 Chinmayanand (Swami) for raping and sexually abusing her, continuously for almost a year. This complaint was forwarded by hand by the

Delhi police to the Special Investigation Team constituted pursuant to the order of this Hon'ble Court.

The Special Investigation Team though proceeded investigation, but concentrated majorly on the extortion allegations made by respondent no. 2. The SIT has so far not registered FIR on the substantive complaint of the petitioner against the respondent no. 2. The petitioner raised this grievance by writing an application to the Special Investigation Team but for no response. On the contrary, SIT was going whole-hog as if it was the extortion case only for which the SIT was constituted by this Hon'ble Court.

The petitioner therefore approached the Hon'ble Monitoring Bench, High Court, with an application for direction to the SIT to register a separate FIR on her complaint. The Monitoring Bench after hearing the counsel for the petitioner at length on 22.10.2019, directed the learned counsel appearing for the Special Investigation Team to file response to the said application. The matter is now listed for 28.11.2019.

It is pertinent to mention here that the constitution bench of this Hon'ble Court in ***Lalita Kumari (2014 (2) SCC 1)***, has laid down that registration of FIR is mandatory under S. 154 of the Code of Criminal Procedure, if the information discloses commission of a cognizable offence.

This Hon'ble Court in ***Ram Lal Naranag 1979 (2) SCC 322, Nirmal Singh Kahlon 2009 (1) SCC 441, Awdhesh Kumar Jha 2016 (3) SCC 8 and Chirag M. Pathak 2018 (1) SCC 330***, has held that two separate complaints by two different persons disclosing distinctive offences, need to be registered by way of separate FIRs, even if some allegation are common. In the present case, the complaint made by the

petitioner is with specific allegations and makes allegation on a much broader canvas than father's missing complaint with apprehensions and doubts.

The Special Investigation Team in place of filing reply to the said application or registering the FIR, has rather filed charge-sheet in the two FIRs it was investigating. The learned counsel for Special Investigation Team has not even disclosed to the High Court on 07.11.2019 that the Hon'ble Division Bench (Monitoring Bench) is seized off with case i.e. the application filed by the petitioner for appropriate directions to be issued for registration of FIR and investigation thereon on the complaint made by her before the Delhi police and that till the investigation has taken place and charge-sheet is filed, in view of the clear mandate of Section 207 read with Section 208 of CrPC and the mandate of the directions of this Hon'ble Court in Shivanna's case (supra), the statement of the victim recorded u/s 164 CrPC cannot be given to the accused/respondent no. 2 Chinmayanand.

At this stage when FIR is yet to be registered on the complaint of the petitioner, supply of statement of the prosecutrix to the accused would cause irreversible damage to her case and the causer of fair investigation.

It is pertinent to mention here that the view taken by the High Court would be having far reaching effect not only in the petitioner's case but in all cases of sexual offences against the women. It is therefore, very necessary for this Hon'ble Court to interfere and add a caveat in the High Court's order that the statement of the victim recorded u/s Section 164 CrPC cannot be given to the accused till charge-sheet is filed and cognizance has been taken by the court concerned.

The petitioner would therefore beseech for kind interference of this Hon'ble Court.



**LIST OF DATES:-**

June, 2018: The victim after finishing her 5 years LLB course from SS Law College, Shahjahanpur, wanted to take admission in LLM and for that she met the Principal of the College. He took the victim to the respondent no. 2 Chinmayanand, who is Chairman of the Managing Committee of the College and is Head of the Mumukshu Ashram as well, wherein all the college and school buildings are situated. Respondent No. 2 is virtually karta-dharta of the entire ashram campus and all the 5 institutions being run there in the campus. Either the respondent no. 2 Chinmayanand (Swami) already had a bad eye on the petitioner or not, but in the first meeting itself, he took her mobile from her, saved his number in that and saved her number in his mobile.

The respondent no. 2 Chinmayanand (Swami) gave the victim admission in LLM course. He persuaded the petitioner to take job in the computer lab despite serious reservation by father of the victim and thus non-acceptance of job by petitioner. She had to say yes because of constant pressure by the respondent no. 2 Chinmayanand (Swami). This followed by taking of Hostel room under compelling circumstances as she was burdened with administrative job, due to which she was regularly getting late, her family used to get angry on that and the respondent no. 2 Chinmayanand (Swami)

literally forced a hostel room on her, she kept few pair of clothes there but did not shift.

October, 2018: One fateful day, the petitioner got quite late due to work. Since it was raining heavily and it was dark, no auto could be found, the victim had to stay back in the hostel room. Next morning when she was bathing, the respondent no. 2 Chinmayanand (Swami) got her video made and then the victim suffered the worst in her life. She was raped by Head of the institution she was pursuing her law, who happens to be a High Repute Saint, a three time Member of Parliament, a former Cabinet Minister in the Central Government. He continued to rape and sexually abuse her for almost a year, till she ran away. He threatened the victim of dire consequences for her and her family, if she dare speak her whole family would be finished, that her video (of both bathing and while being raped) would be made public, that all girls do drama in the beginning and thereafter all comes to terms, that the ashram campus is very big and that there are several girls buried in, etc. etc.

24.08.2019: The petitioner managed to run away from Shahjahanpur in 2<sup>nd</sup> week of August, 2019. While on she posted a video on her Facebook profile stating serious threat to her and her family's life and alleging that a highly placed person of Sant Samaj has destroyed life of several girls and that she has evidence against him. She appealed for help.

25.08.2019: Father of the girl got worried about her and went to Kotwali to lodge a complaint, but his complaint was not taken. True translated copy of complaint dated 25.08.2019 is annexed herewith and marked as **Annexure P-4.** (Pg. )

25.08.2019: Meanwhile, one Sh. Om Singh, Advocate, made a police complaint dated 24.08.2019 alleging therein that on 22.08.2019 at 12:53 pm a whatsapp message has been received on Mobile No. 9415326300 from whatsapp no. 8604207465 asking for Rs. 5 crore and threatened that if money is not given, then I have video which I would make viral and spoil your image and disrepute you in the society. This complaint was registered as FIR No. 442 on 25.08.2019 at 2:25 am (midnight) and it shows that the complaint was received on 25.08.2019 at 2:20 a.m. This FIR has been registered under section 67 (A added later with pen) of IT (Amended) Act, 2000 and section 507 and 387 of IPC, 1860. True translated copy of FIR No. 442/2019 dated 25.08.2019, is annexed herewith and marked as **Annexure P-5.** (Pg. )

27.08.2019: Petitioner's father's complaint was registered with delay of two days when her video became viral. His complaint was registered as FIR No. 445 /2019 for offences of abduction and sexual harassment u/s S. 506 and S. 364 IPC. He specifically stated in his complaint that the mobile phone of his daughter is switched off since 23.08.2019 and that Chinmayanand and some other persons have

threatened to sexually abuse my daughter and other girls and to kill me and my family. As per the FIR the complaint has been received on 27.08.2019 at 11:35 p.m. with entry no. 42 in general diary reference. FIR has been registered on 11:49 p.m. Father's complaint. True translated copy of FIR No. 445/2019 dated 27.08.2019 is annexed herewith and marked as **Annexure P-6.** (Pg.        )

27.08.2019: The Facebook video of the victim became viral on several online news portals. True copy of online news reports dated 27.08.2019, is annexed herewith and marked as **Annexure P-7.** (Pg.        )

28.08.2019: Some advocates practicing in this Hon'ble Court filed a letter petition before this Hon'ble Court, requesting suo-moto action to be taken citing news reports from online news portals. True copy of letter petition dated 28.08.2019 filed before this Hon'ble Court is annexed herewith and marked as **Annexure P-8.** (Pg.        )

30.08.2019: That when the Suo-Moto Petition was taken up at 1 pm for hearing, it was informed to this Hon'ble Court that the law student has been found by UP police near Mehandipur Balaji in Dausa (Rajasthan) along with her friend. The girl was produced before this Hon'ble Court as directed by this Hon'ble Court on the same day by 6:45-7 pm. At 7:35 pm, this Hon'ble Court passed the following order (relevant para extracted):

*"We have spoken to Miss "A" in-camera. .... She stated that prior to Raksha Bandhan she left Shahjahanpur, Uttar Pradesh, along with her three college mates who are also their family friends, in order to protect herself. She has stated that she does not intend to go back to the Uttar Pradesh for the present till she meets her parents in Delhi and talk to them. She has further stated that after meeting her parents and talking to them she will take a decision on her future course of action. Miss "A" wants to stay back in Delhi for the time being till she meets her parents and talk to them."*

*"the Registry shall ensure stay of Miss "A" in All India Women's Conference "BAPNU GHAR" at Bhagwan Das Marg for four days which shall permit the girl to use landline to talk to her parents only."*

*"we direct the Commissioner of Delhi Police to depute a team of police to Shahjahanpur to ensure comfortable travel of the parents of Miss "A" to Delhi to meet Miss "A". The Registry and Mr. Vikramjeet Banerjee, learned Additional Solicitor General, shall ensure team of police are sent to Shahjahanpur to accompany the parents at the earliest and remain with the parents until further orders from this Court."*

True copy of order dated 30.08.2019 of this Hon'ble Court in Suo Moto Writ (Cr1.) No. 2/2019, is annexed herewith and marked as **Annexure P-9.** (Pg.            )

02.09.2019: The suo-moto matter again came up for hearing before this Hon'ble Court, wherein this Hon'ble Court directed as under:

*"The Chief Secretary, State of Uttar Pradesh, **to constitute a Special Team** headed by a police officer in the rank of the Inspector General of Police to be assisted by the Superintendent of Police and a team of police officers **to enquire into the grievances expressed by Miss "A"**"*

*"The investigation team to be constituted shall take note of both the FIRs"*

*"Considering the facts and circumstances of the case, we request the Chief Justice of the High Court of Judicature at Allahabad to constitute a Bench to monitor the investigations in this regard."*

*"In so far as the apprehension expressed by the father of the girl about their safety, we direct the Chief Secretary, State of Uttar Pradesh, to direct the Superintendent of Police of the concerned district, namely, Shahjahanpur, to afford protection to the parents and family members of the girl on assessing the threat perception."*

True copy of order dated 02.09.2019 of this Hon'ble Court in Suo Moto Writ (Cr1.) No. 2/2019 is annexed herewith and marked as **Annexure P-10. (Pg.            )**

03.09.2019: The Uttar Pradesh DGP set up the SIT under Inspector General of Police Sh. Naveen Arora after receiving instructions from Chief Secretary, State of Uttar Pradesh.

04.09.2019: This Hon'ble Court passed appropriate direction for admission of the petitioner and

her brother in Mahatma Jyotiba Phule Rohilkhand University, Bareilly and Shreeji Institute of Legal and Vocational Studies, Bareilly, respectively. This Hon'ble Court further observed that the petitioner who is presently residing at the Bapnu Ghar is permitted to go along with her parents. It was also ordered that for any further direction including with regard to safety and security, the petitioner and her parents are at liberty to approach the High Court of Judicature at Allahabad. True copy of order dated 04.09.2019 of this Hon'ble Court in Suo Moto Writ (CrI.) No. 2/2019, is annexed herewith and marked as **Annexure P-11.** (Pg.         )

05.09.2019: After coming out from the Bapnu Ghar, the petitioner lodged a detailed complaint at Lodhi Road Police Station of being raped and sexually abused for almost a year. The petitioner would keep handy the true copy and true translated copy of the complaint dated 05.09.2019 for kind perusal of this Hon'ble Court.

05.09.2019: The Monitoring Bench which was constituted by the High Court of Judicature at Allahabad as per the order of this Hon'ble Court, had taken up the matter on 05.09.2019, wherein the Hon'ble High Court observed as under:

*“List this case on 23rd September, 2019. By the next date, the Officer Incharge or a responsible member of the Special Investigation Team (SIT) constituted under the order of the Apex Court dated 02.09.2019 shall file an affidavit*

*detailing the progress in the investigation of the case.*

*The victim and her family would also be served copy of this order so as to inform them that they have a right **to move an application before this Court in respect of any grievance which they may have regarding the investigation as also with regard to any issue relating to their protection.***

*The above information to the victim and victim's family shall be provided through the Chief Judicial Magistrate, Shahjahanpur within next one week.”*

True copy of order dated 05.09.2019 passed by the Allahabad High Court in Crl. Misc. W.P. No. 21181/2019, is annexed herewith and marked as **Annexure P-12.** (Pg.        )

06.09.2019: Delhi Police by hand sent the complaint to SIT. The complaint was received by Shri Navin Arora (Head of SIT) by 11:30 am on 07.09.2019.

07.09.2019: The victim and her family was taken to Shahjahanpur by Delhi Police where they reached by 10:30-11:00 am.

08.09.2019: The father of the petitioner was questioned at length for 5-5.30 hours by SIT and she herself was questioned at length for 4.30-5 hours. The SIT majorly concentrated on the extortion case only though the petitioner from her side tried to bring their attention on the rape case, the year-long ordeal, blackmail, sexual assault, repeated rape on gunpoint, harassment, torture, daily forced to give body



message to the accused Chinmayanand, everything. She as a matter of fact did not speak about the fact that she has the evidence handy with her in the pendrive, which her brother could retrieve from his laptop during their stay in Delhi. She was not sure to give this vital evidence to SIT simply because the way SIT was behaving with her and posing questions majorly on extortion case and showing their least concern in her rape charges.

09.09.2019: To the utter shock of the petitioner, few videos from the videos she made were leaked in social media. It was most unfortunate day for her after what all she suffered from Chinmayanand in last 1 year as what had happened to her in a closed door, came out in public without her knowledge and permission. Apparently the pen-drive which was snatched away from her in Mehandipur Balaji, was used as source for those selective leaks day in day out.

10.09.2019: SIT searched the hostel room of the victim. The room was tempered with and it was not in the same shape as she left. Her spectacles which she purchased from Flipkart and made the video from, was missing and several other items were missing from the room and some additional indiscriminating things were planted. A memo was prepared.

11.09.2019: The petitioner was taken to the local medical college where her medical was done by a panel

of doctors under the supervision of Chief Medical Officer.

- 13.09.2019: Memo regarding handing over of the pendrive submitted by the petitioner alongwith her father and brother.
- 13.09.2019: letter by the victim through her father to the SIT as to why her FIR has not been registered yet, but for no response.
- 16.09.2019: Complainant's statement u/s 164 CrPC in front of Judicial Magistrate Geetika Singh was recorded and in the presence of one court staff. Though the petitioner requested and asserted, she was not allowed to read her statement, paginate them or to sign on each page. She was only allowed to sign the last page and verify it.
- 17.09.2019: The victim filed an application before the Monitoring Bench, Allahabad High Court, specifically mentioning therein the lapses while recording her 164 statement that Chinmayanand has not been arrested so far and also prayed stay of her arrest which she was apprehending because she was named in the press note issued by the SIT.
- 17.09.2019: Application by the petitioner to the Chief Judicial Magistrate pointing out the lapses while recording statement u/s 164 CrPC.
- 19.09.2019: The Additional District and Sessions Judge, In-Charge Copying, Shahjahanpur, dismissed

the application of respondent no. 2 Chinamayanand seeking certified copy of statement of the petitioner recorded u/s 164 CrPC, by relying upon the directions of this Hon'ble Court in Shivanna's case. True translated copy of order dated 19.09.2019 passed by the Additional District and Sessions Judge, In-Charge Copying, Shahjahanpur in FIR no. 445/2019, is annexed herewith and marked as **Annexure P-13.** (Pg.            )

20.09.2019: Accused Chinmayanand was arrested.

23.09.2019: The Monitoring Bench had gone through the Status Report and the summary of investigation handed over in a sealed cover and posted the matter for 22.10.2019. True copy of order dated 23.09.2019 passed by the Allahabad High Court in CrI. Misc. W.P. No. 21181/2019, is annexed herewith and marked as **Annexure P-14.** (Pg.            )

23.09.2019: The Chief Judicial Magistrate, Shahjahanpur dismissed Chinamayanand's bail application.

24.09.2019: The victim filed anticipatory bail application which was taken up for hearing. The Additional District Judge, Shahjahanpur, directed SIT to produce case diary and kept the matter for 26.09.2019.

24.09.2019: The SIT from Court directly reached to residence of the petitioner and interrogated her for 3-4 hours till late in the night, only on the extortion case and also confronted her with a video.

24.09.2019: SIT informed her that on 25.09.2019 her statement would be recorded at her residence and she shall not leave the house.

25.09.2019: SIT reached the residence of the victim at around 9:15-9:30 a.m and after posing 3-4 questions they suddenly pulled her, dragged her on the floor, did not even allow her to wear slipper or go to loo, she even got bruises on her hand during the process. She was taken from residence to police line where she was served section 41C notice. From there she was taken for her medical. She was then produced before the Court. Her lawyer opposed her remand. She was then sent to 14 days judicial custody till 07.10.2019. With all this, the SIT rendered the anticipatory bail application infructuous a day in advance.

Meanwhile, it was widely reported in news papers that Chinmayanand complained with illness and has been referred to P.G.I and since then i.e. since 21<sup>st</sup> or 22<sup>nd</sup> September he is staying in P.G.I.

25.09.2019: Regular bail application moved by the Petitioner was dismissed by the Chief Judicial Magistrate Court. On 26.09.2019, the petitioner sent from jail a petition for registration of her FIR in the police complaint made to the Lodhi colony police station, New Delhi.

26.09.2019: The petitioner filed regular bail application before the Sessions Court, Shahjahanpur.

- 28.09.2019: The Court of Chief Judicial Magistrate, Shahjahanpur dismissed both the application i.e. by the complainant Sh. Harish Sharma and the petitioner.
- 30.09.2019: Bail application of the petitioner and Chinmayanand were both dismissed by the Sessions Court, Shahjahanpur by two separate orders.
- 14.10.2019: The petitioner filed bail application before the High Court of Judicature at Allahabad.
- 14.10.2019: Petitioner filed an application before the Monitoring Bench pointing out the biased manner in which the SIT was conducting the investigation and also raised grievance that so far no FIR has been registered on her complaint dated 05.09.2019. True copy of application being IA/1/2019 dated 14.10.2019 filed by the petitioner before Allahabad High Court in Crl. Misc. W.P. No. 21181/2019 is annexed herewith and marked as **Annexure P-15.** (Pg. )
- 22.10.2019: The Monitoring Bench after hearing the learned counsel for the petitioner on the application for direction to register FIR, directed the SIT to file its response. True copy of order dated 22.10.2019 passed by the Allahabad High Court in Crl. Misc. W.P. No. 21181/2019 is annexed herewith and marked as **Annexure P-16.** (Pg. )
- 22.10.2019: The respondent no. 2 (Chinamayanand) filed Crl. Misc. Appl. No. 39538/2019 before High

Court against order dated 19.09.2019 of Additional District Judge, In-Charge Copying, Shahjahanpur.

01.11.2019: The family of the petitioner was called for interrogation by SIT in the police line, wherein the parents of the petitioner specially her mother were badly beaten up by SIT in presence of SIT Head who threatened the parents that he would make sure that petitioner is not coming out on bail and that he would make sure that the whole family including the 10 year old younger sister of the petitioner are rotten in jail. The mother of the petitioner on 03.11.2019 sent a handwritten complaint in Hindi dated 02.11.2019 through mail to this Hon'ble Court and to the Chief Justice of Allahabad High Court at mail id [supremecourt@nic.in](mailto:supremecourt@nic.in) and [cj@allahabadhighcourt.in](mailto:cj@allahabadhighcourt.in), respectively through the mail id of her brother. True copy of the proof of mail dated 03.11.2019 is annexed herewith and marked as **Annexure P-17.** (Pg. )

05.11.2019: The application filed by respondent no. 2 (Chinmayanand) was taken up though adjourned for the very next day i.e. for 06.11.2019 to enable the government advocate to file response. True copy of order dated 05.11.2019 passed by Allahabad High Court in Crl. Misc. Appl. No. 39538/2019, is annexed herewith and marked as **Annexure P-18.** (Pg. )

05.11.2019: The parents of the petitioner filed an application for necessary directions bringing to the notice of the High Court the high handedness and the torture by the SIT. True copy of application being IA/3/2019 dated 06.11.2019 filed before Allahabad High Court, is annexed herewith and marked as **Annexure P-19.** (Pg.            )

05.11.2019: The SIT has filed Charge-Sheet in both the FIRs i.e. FIR No. 442/2019 and FIR No. 445/2019.

07.11.2019: The High Court vide the impugned order allowed the application under section 482 CrPC filed by the respondent no. 2 Swami Chinmayanand alias Krishna Pal Singh and thereby allowed the application of the respondent no. 2 Chinmayanand to provide certified copy of the statement of the victim (Petitioner herein) recorded under Section 164 CrPC, by completely ignoring the directions issued by this Hon'ble Court in rem in the matter of Shivanna's case (supra), by observing that the said directions were issued by this Hon'ble Court only for the police to be followed and not to the court. The impugned order is per incuriam to the fact that till date no FIR has been registered on the complaint of the petitioner and thus the question of providing copy of statement of the petitioner u/s 164 CrPC does not even arise.

13.11.2019: Hence, the present special leave petition.

\*\*\*\*\*

**IN THE SUPREME COURT OF INDIA**  
**(S.C.R., ORDER XXII RULE (2)(1))**  
**(CRIMINAL APPELLATE JURISDICTION)**

**SPECIAL LEAVE PETITION**

(Under Article 136 of the Constitution of India)

**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2019**

**(WITH PRAYER FOR INTERIM RELIEF)**

(Arising out of the Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019.)

**BETWEEN**

**POSITION OF PARTIES**

<b>IN TRIAL COURT</b>	<b>IN HIGH COURT</b>	<b>IN THIS COURT</b>
---------------------------	--------------------------	--------------------------

Miss 'A'

(At present lodged in Central Jail,  
Shahajahanpur, UP, since 20.08.2019)

Through Shivam Sharma (brother)  
s/o Shri Harish Chandra Sharma,  
R/o Mohalla Rangmahala Kerugaj,  
Police Station-Kotwali  
District-Shahjahanpur, UP.

Complainant	Not party	Petitioner
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**AND**

1. The State of Uttar  
Pradesh through Secretary(Home),  
Lucknow, Uttar Pradesh.

Prosecution	Sole Respondent	Respondent No. 1
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2. Swami Chinmayanand Alias Krishna Pal Singh  
s/o Late Bhuvneshwari Singh  
r/o Village Tyorashi, P.S. Paraspeer,



District Gonda, Uttar Pradesh  
Currently resident of  
Mumukshu Ashram, P.S. Kotwali  
District Shahjahanpur, UP  
At present lodged at Central Jail,  
Shahjahanpur, UP.

Accused      Petitioner      Respondent  
No. 2

(Both Contesting Respondents)

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUDGES OF  
THE HON'BLE SUPREME COURT OF INDIA

The humble petition of the  
petitioner above named.

**MOST RESPECTFULLY SHOWETH:-**

1. That the present special leave petition is preferred under Article 136 of the Constitution of India against Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019, vide which the High Court has directed the trial court to provide a certified copy of the statement of victim recorded under Section 164 CrPC to the respondent No. 2/accused. The impugned order has been passed by High Court by completely ignoring the directions issued by this Hon'ble Court in rem in the matter of State of Karnataka v/s Shivanna @ Tarkari Shivanna (2014 (8) SCC 913), by observing that the said directions were issued by this Hon'ble Court only for the police to be followed and not to the court. The impugned order is also per incuriam to the fact that till date no FIR has been registered on the complaint of the petitioner and thus the question of providing copy of statement of the petitioner u/s 164 CrPC does not even arise.

2. **QUESTIONS OF LAW:-**

The following questions of law arise for the consideration by this Hon'ble Court:

- A. Whether the High Court has erred in passing a blanket order that the accused (respondent no. 2 herein) is entitled for copy of the statement of the rape victim (petitioner herein) recorded u/s 164 CrPC irrespective of stage of investigation?
- B. Whether the impugned order has been passed in complete ignorance of directions issued by this Hon'ble Court in rem in the matter of State of Karnataka v/s Shivanna @ Tarkari Shivanna (2014 (8) SCC 913), that statement under Section 164 CrPC should not be disclosed to any person till charge-sheet/report under Section 173 CrPC is filed?
- C. Whether direction of the High Court to give copy of the statement of the rape victim (petitioner herein) recorded u/s 164 CrPC without noticing the mandate of section 207 r/w 208 of the Code of Criminal Procedure, 1973, which provides that such statement can only be given after cognizance is taken by the court concerned?
- D. Whether the impugned order is also per incuriam to the fact that till date no FIR has been registered on the complaint of the petitioner and thus the question of providing copy of statement of the petitioner u/s 164 CrPC does not even arise?
- E. Whether the judgement in Raju v/s State of U.P. & Ors., reported in 2012 LawSuit (All) 723 of High Court of Judicature at Allahabad relied upon in the impugned

order, holding that such statement is ought to be given to the accused, does not laid down correct law ?

- F. Whether the impugned order has larger repercussions specially in cases of sexual offences against woman, where direction for supply of copy of statement of victim u/s 164 CrPC even during investigation would unreasonably put the accused to an advantageous position to and would cause irreversible damage to the investigation and case of the prosecutrix?

3. **DECLARATION IN TERMS OF RULE 2 (2):**

The petitioner states that no other Petition seeking Leave to Appeal has been filed by her against the impugned Order.

4. **DECLARATION IN TERMS OF RULE 4:**

The Annexures P-1 to P-19 produced along with the Special Leave Petition are true copies of the pleadings/documents, which formed part of the records of the case in the Courts below against whose order the leave to appeal is sought for in this petition.

5. **GROUND:-**

That special leave to appeal is sought for on the following amongst other grounds, each of which is without prejudice to the others:

- I. BECAUSE, the High Court has erred in passing a blanket order that the accused (respondent no. 2 herein) is entitled for copy of the statement of the rape victim (petitioner

herein) recorded u/s 164 CrPC irrespective of stage of investigation.

II. BECAUSE, the impugned order has been passed in complete ignorance of directions issued by this Hon'ble Court in rem in the matter of State of Karnataka v/s Shivanna @ Tarkari Shivanna (2014 (8) SCC 913), that statement under Section 164 CrPC should not be disclosed to any person till charge-sheet/report under Section 173 CrPC is filed. The relevant direction in Shivanna's case is reproduced hereunder for ready reference :-

**"10.1.** Upon receipt of information relating to the commission of offence of rape, the investigating officer shall make immediate steps to take the victim to any Metropolitan/preferably Judicial Magistrate for the purpose of recording her statement under Section 164 CrPC. A copy of the statement under Section 164 CrPC should be handed over to the investigating officer immediately with a specific direction that **the contents of such statement under Section 164 CrPC should not be disclosed to any person till charge-sheet/report under Section 173 CrPC is filed.**"

III. BECAUSE, the High Court has seriously erred in placing reliance upon judgment of the same High Court in ***Raju v/s State of U.P. & Ors., reported in 2012 LawSuit (All) 723*** to say that "It was bounden duty of Trial Court to provide a certified copy of the statement of the victim recorded under section 164 CrPC, to the applicant subject to payment of usual charges". In Raju's case (supra), the Division Bench of Allahabad High Court, relied upon to earlier two judgements of the same High Court, which are ***(i) Bashiruddin and Anr. v/s Emperor (AIR 1932 All 327)*** ; ***(ii) Shankar Lal and Ors. v/s The State (AIR 1954 All 779)***, and held that "...that no person, who is entitled to a copy of the statement under Section 164 CrPC, could be denied the

required copy of the said document if he is ready to pay the cost admissible under rules of the court”.

IV. BECAUSE, both the above referred cases are prior to the amendment of the Code of Criminal Procedure in 1973, which means both the above cases deal with the Code of Criminal Procedure, 1898. The 1898 CrPC has seen an overhaul change by way of the Criminal Procedure Code, 1973. Even otherwise the approach of the courts and interpretation of these mandatory provisions have seen a sea change. After the December, 2012 horrifying rape incident in Delhi, which is broadly referred to as NIRBHAYA'S case, further amendments have been brought in the Code of Criminal Procedure, particularly in Section 154 and 164 CrPC. That post 2013 amendment, Section 154(1) and Section 164(5A) CrPC, require that in cases relating to sexual harassment/assault and of rape and insult to the modesty of a women, statement of the victim shall be recorded by a Judicial Magistrate as soon as possible. Sub-section 6 of Section 164 CrPC requires that a Magistrate recording a confession or a statement under Section 164 CrPC shall forward it to the Magistrate by whom the case is to be enquired into or tried.

V. BECAUSE, the impugned order is erroneous and per incuriam to the mandate of section 207 and 208 of Code of Criminal Procedure, 1973 and the very object and purpose of recording statement of a victim of sexual assault/rape by a Judicial Magistrate and to be kept by the Judicial Magistrate dealing with the matter.

VI. BECAUSE, the High Court has erred in relying upon the age old judgments which were dealing with Code of Criminal Procedure, 1898 (now repealed), wherein the whole chapter XVIII (sections 206-220), relating to inquiry into cases triable

by the court of sessions or high court division was omitted. In the 1973 CrPC, we have section 207-208 which precisely deals with supply of documents to the accused. Section 207 (iv) precisely deals with supply to the accused of the statement under section 164 CrPC. It is pertinent to mention here that the powers under section 207 and 208 can be exercised by the Magistrate after commencement of the proceedings under Chapter XVI of the CrPC, which means after taking cognizance of an offence by the Magistrate concern.

VII. Because, it is thus clear that for the purpose of copy of statement of the victim recorded under section 164 CrPC, there is a pre-condition that the charge-sheet has been filed and cognizance has been taken by the Magistrate. This requirement of law has not been noticed by the High Court of Allahabad either in Raju's case or in its two earlier judgments of the year 1932 and 1954. All these 3 judgements have only discussed the right of the accused to have the copy in view of the fact that the statements recorded under S. 164 CrPC are part of judicial record and the same cannot be denied to the accused if he is ready to pay the cost as per rules. These judgments have not at all discussed that at what stage of proceedings the statement can be given to the accused.

VIII. BECAUSE, the petitioner is not for a moment suggesting that the accused is not at all entitled to get copy of the statement of the victim recorded under S. 164 CrPC. What is crucial is, at what stage the accused becomes entitled for the statement of the victim under section 164 CrPC and for that matter the statements recorded under S. 161 CrPC and/ or any other document which is part of case diary.

IX. BECAUSE, none of the above referred three judgements as have been relied upon by the High Court and not even the impugned order do refer to the stage at which the 164 CrPC

statement can be given to the accused. A bare reading of the scheme of chapter XVI– Section 206-210 (Commencement of proceedings before Magistrate) of Code of Criminal Procedure, clearly provides that such occasion arises only after cognizance is taken by the Magistrate concerned. In Shivanna's case also, this Hon'ble Court has clearly directed that a copy of the statement under Section 164 CrPC should be handed over to the investigating officer immediately with a specific direction that the contents of such statement under Section 164 CrPC should not be disclosed to any person till charge-sheet/report under Section 173 CrPC is filed.

X. BECAUSE, it is also worth noting here that in the present case the Crl. Misc. Application was listed before the High Court on 05.11.2019, wherein the complainant or the victim (petitioner herein) was not impleaded as party respondent. The government advocate appeared on advance notice and sought time to seek instructions. The matter was directed to be listed on the very next date i.e. on 06.11.2019, though it came to be listed on 07.11.2019, whereon the learned government advocate conceded that statement of the victim recorded under Section 164 CrPC ought to have been given to the accused/respondent no. 2 Chinmayanand (Swami) herein and that the Trial Court has erred in refusing to give the copy. Thus the Criminal Misc. Application was allowed in a fast track mode, just in two days, that too unopposed.

XI. BECAUSE, few facts are very important to be mentioned. The petitioner is a law graduate and has now been enrolled as an Advocate with the Bar Council of Uttar Pradesh. She has studied a five years LL.B. course from S.S. Law College, Shahjahanpur. While pursuing her LL.M. course from the same college, she was raped, sexually abused by the respondent no. 2 Chinmayanand (Swami) @ Krishna Pal Singh who happened to be the Chairman of the Managing

Committee of not only S.S. Law College but of rest of the four Colleges and schools situated in the premises of Mumukshu Ashram, Shahajahanpur. Chinmayanand (Respondent no. 2) is head of all the institutions and the ashram and has very telling clout and influence of power and high contacts. The petitioner was raped and sexually abused for almost a year by none other but head of the institution she was pursuing her Master's Degree. She finally could escape in August, 2019 with the help of co-students and friends. She had also been able to make some videos of her sexual harassment. The petitioner made a detailed complaint on 05.09.2019, but the SIT has yet not registered FIR on her complaint. The petitioner therefore approached the Hon'ble Monitoring Bench, High Court, with an application for direction to the SIT to register a separate FIR on her complaint. The Monitoring Bench after hearing the counsel for the petitioner at length on 22.10.2019, directed the learned counsel appearing for the Special Investigation Team to file response to the said application. The matter is now listed for 28.11.2019.

XII. BECAUSE, it is pertinent to mention here that the constitution bench of this Hon'ble Court in ***Lalita Kumari (2014 (2) SCC 1***, has laid down that registration of FIR is mandatory under S. 154 of the Code of Criminal Procedure, if the information discloses commission of a cognizable offence. This Hon'ble Court in ***Ram Lal Naranag 1979 (2) SCC 322, Nirmal Singh Kahlon 2009 (1) SCC 441, Awdhesh Kumar Jha 2016 (3) SCC 8 and Chirag M. Pathak 2018 (1) SCC 330***, has held that two separate complaints by two different persons disclosing distinctive offences, need to be registered by way of separate FIRs, even if some allegation are common. In the present case, the complaint made by the petitioner is with specific allegations and makes allegation on a much broader canvas than father's missing complaint with apprehensions and doubts.



XIII. BECAUSE, the Special Investigation Team in place of filing reply to the said application or registering the FIR, has rather filed charge-sheet in the two FIRs it was investigating. The learned counsel for Special Investigation Team has not even disclosed to the High Court on 07.11.2019 that the Hon'ble Division Bench (Monitoring Bench) is seized off with case i.e. the application filed by the petitioner for appropriate directions to be issued for registration of FIR and investigation thereon on the complaint made by her before the Delhi police and that till the investigation has taken place and charge-sheet is filed, in view of the clear mandate of Section 207 read with Section 208 of CrPC and the mandate of the directions of this Hon'ble Court in Shivanna's case (supra), the statement of the victim recorded u/s 164 CrPC cannot be given to the accused/ respondent no. 2 Chinmayanand.

XIV. BECAUSE, at this stage when FIR is yet to be registered on the complaint of the petitioner, supply of statement of the prosecutrix to the accused would cause irreversible damage to her case and the causer of fair investigation.

XV. BECAUSE, it is pertinent to mention here that the view taken by the High Court would be having far reaching effect not only in the petitioner's case but in all cases of sexual offences against the women, where direction for supply of copy of statement of victim u/s 164 CrPC even during investigation would unreasonably put the accused to an advantageous position to and would cause irreversible damage to the investigation and case of the prosecutrix. It is therefore, very necessary for this Hon'ble Court to interfere and add a caveat in the High Court's order that the statement of the victim recorded u/s Section 164 CrPC cannot be given to the accused till charge-sheet is filed and cognizance has been taken by the court concerned.

6. **GROUND FOR INTERIM RELIEF:-**

A. BECAUSE, the SIT has yet not registered FIR on the complaint dated 05.09.2019 of the petitioner and therefore supply of statement of the prosecutrix to the accused at this stage would cause irreversible damage to her case and the causer of fair investigation. It is therefore necessary that operation of the impugned order is stayed with immediate effect till final disposal of the special leave petition.

7. **MAIN PRAYER :-**

It is, therefore, most respectfully prayed that your Lordships may graciously be pleased to:

- a) Grant Special leave to appeal against Impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019; and/or,
- b) Pass such other order or orders which this Hon'ble Court may deem fit and proper in the interest of justice.

8. **INTERIM RELIEF:**

It is, therefore, most respectfully prayed that your Lordships may graciously be pleased to:

- a) grant ad-interim ex-parte order staying operation of the Impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019, till final disposal of the special leave petition ; and/or,

- b) pass such other order or orders which this Hon'ble Court may deem fit and proper in the interest of justice.

FILED BY

**(ADV. SHOBHA GUPTA)**

ADVOCATE FOR THE PETITIONER

Drawn on: 12.11.2019

Filed on: 13.11.2019

New Delhi.

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**SPECIAL LEAVE PETITION (Cr1.) NO. \_\_\_\_\_ OF 2019**

**IN THE MATTER OF:**

Miss 'A' .....Petitioner  
(At present lodged in Central Jail,  
Shahajahanpur, UP, since 20.08.2019)  
Through Shivam Sharma (brother)

VERSUS

The State of Uttar Pradesh & Anr. ....Respondents

**CERTIFICATE**

Certified that the Special Leave Petition is confined only to the pleadings before the Court whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the documents/ annexures attached to the Special Leave Petition are necessary to answer the questions of law raised in the petition or to make out ground urged in the special leave petition for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the petitioner whose affidavit is filed in support of the Special Leave Petition.

FILED BY

**(ADV. SHOBHA GUPTA)**

(ADVOCATE FOR THE PETITIONER)

New Delhi  
Filed on: 13.11.2019.

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2019**

**IN THE MATTER OF:**

Miss 'A' .....Petitioner  
(At present lodged in Central Jail,  
Shahjahanpur, UP, since 20.08.2019)  
Through Shivam Sharma (brother)

**VERSUS**

The State of Uttar Pradesh & Anr. ....Respondents

**AFFIDAVIT**

I, Shivam Sharma s/o Shri Harish Chandra Sharma,  
R/o Mohalla Rangmahala Kerugaj, Police Station-Kotwali,  
District-Shahjahanpur, UP, at present at Nee Delhi, do hereby  
solemnly affirm and state on oath as follows:

1. That I am the perokar of the petitioner being her real brother in the above mentioned matter and am well conversant with the facts of the case and am competent to depose to this affidavit.
2. That the statements of facts contained in para 1 to , pages to of the special leave petition including list of dates, pages B to and I.A.(s) are true and correct to my knowledge and the grounds of appeal taken in the special leave petition are the legal submissions before this Hon'ble Court.
3. That the annexures filed with the special leave petition are true copies of their respective original and formed part of the record in the courts below.
4. That the petitioner has not filed any other special leave petition against the impugned order for similar relief.

**DEPONENT**

**VERIFICATION:-**

I swear that the contents of my above affidavit are true and correct to my knowledge and the information derived from the record of the case and nothing material is suppressed or concealed therefrom.

Verified at                      on this                      day of November, 2019.

**DEPONENT**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**I. A. NO. \_\_\_\_\_ OF 2019**

**IN**

**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2019**

**IN THE MATTER OF:**

Miss 'A' .....Petitioner/ Applicant  
(At present lodged in Central Jail,  
Shahajahanpur, UP, since 20.08.2019)  
Through Shivam Sharma (brother)

**VERSUS**

The State of Uttar Pradesh & Anr. ....Respondents

**APPLICATION SEEKING PERMISSION  
TO FILE SPECIAL LEAVE PETITION.**

TO,

THE HON'BLE THE CHIEF JUSTICE OF  
INDIA AND HIS COMPANION JUDGES  
OF THE SUPREME COURT OF INDIA.

The humble application of  
the Petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. That the aforementioned special leave petition is preferred under Article 136 of the Constitution of India against impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019.
2. That the petitioner/ applicant is the prosecutrix/ victim, whose statement recorded under section 164 CrPC has been directed by the High Court by the impugned order to

be given to the accused/ respondent no. 2 herein. The petitioner is thus directly aggrieved by the order of the High Court impugned herein the present special leave petition, but the petitioner was not made party respondent before the High Court. The petitioner therefore seeks permission from this Hon'ble Court to file special leave petition against the impugned order.

3. The applicant/petitioner therefore would pray to this Hon'ble Court to grant permission to file special leave petition against the impugned order being Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019.

4. This application is made bonafide and in the interest of justice.

**PRAYER**

It is, therefore, most respectfully prayed that your Lordships may graciously be pleased to:

- a) grant permission to file special leave petition against the impugned order being Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019; and/or,
- b) pass such other order or orders which this Hon'ble Court may deem fit and proper in the interest of justice.

FILED BY

**(ADV. SHOBHA GUPTA)**

ADVOCATE FOR THE APPLICANT/PETITIONER

New Delhi  
Filed On: 13.11.2019



**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**I. A. NO. \_\_\_\_\_ OF 2019**

**IN**

**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2019**

**IN THE MATTER OF:**

Miss 'A' .....Petitioner/ Applicant  
(At present lodged in Central Jail,  
Shahajahanpur, UP, since 20.08.2019)  
Through Shivam Sharma (brother)

**VERSUS**

The State of Uttar Pradesh & Anr. ....Respondents

**APPLICATION FOR EXEMPTION  
FROM CERTIFIED COPY OF THE IMPUGNED ORDER**

TO,

THE HON'BLE THE CHIEF JUSTICE OF  
INDIA AND HIS COMPANION JUDGES  
OF THE SUPREME COURT OF INDIA.

The humble application of  
the Petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. That the aforementioned special leave petition is preferred under Article 136 of the Constitution of India against impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019.
2. That the petitioner/ applicant has applied for the certified copy of the impugned order dated 07.11.2019, but

the same has yet not been available by the High Registry. The petitioner has therefore filed the present special leave petition with the true copy of the impugned order downloaded from the official website of Allahabad High Court. The petitioner undertakes to file the certified copy of the impugned order as and when the same is made available by the registry of High Court.

3. The applicant/petitioner therefore would pray to this Hon'ble Court that the filing of certified copy of the impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019, may kindly be exempted in the interest of justice.

4. This application is made bonafide and in the interest of justice.

**PRAYER**

It is, therefore, most respectfully prayed that your Lordships may graciously be pleased to:

- a) grant exemption to the petitioner from filing certified copy of the impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019; and/or,
- b) pass such other order or orders which this Hon'ble Court may deem fit and proper in the interest of justice.

FILED BY

**(ADV. SHOBHA GUPTA)**

ADVOCATE FOR THE APPLICANT/PETITIONER

New Delhi

Filed On : 13.11.2019

**IN THE SUPREME COURT OF INDIA**

**CRIMINAL APPELLATE JURISDICTION**

**I. A. NO. \_\_\_\_\_ OF 2019**

**IN**

**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2019**

**IN THE MATTER OF:**

Miss 'A' .....Petitioner/ Applicant  
(At present lodged in Central Jail,  
Shahajahanpur, UP, since 20.08.2019)  
Through Shivam Sharma (brother)

**VERSUS**

The State of Uttar Pradesh & Anr. ....Respondents

**APPLICATION FOR EXEMPTION**  
**FROM FILING OFFICIAL TRANSLATION**

TO,

THE HON'BLE THE CHIEF JUSTICE OF  
INDIA AND HIS COMPANION JUDGES  
OF THE SUPREME COURT OF INDIA.

The humble application of  
the Petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. That the aforementioned special leave petition is preferred under Article 136 of the Constitution of India against impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019.

2. That Annexures P-4 to P-6 and P-13, which were originally in Hindi, have been filed after being translated in English by the local counsel to avoid delay in filing the petition. The applicant/petitioner therefore would pray to this Hon'ble Court that the filling of official translation of Annexures P-4 to P-6 and P-13, may kindly be exempted in the interest of justice.

3. This application is made bonafide and in the interest of justice.

**PRAYER**

It is, therefore, most respectfully prayed that your Lordships may graciously be pleased to:

- a) grant exemption to the petitioner from filing the official translation of Annexures P-4 to P-6 and P-13; and/or,
- b) pass such other order or orders which this Hon'ble Court may deem fit and proper in the interest of justice.

FILED BY

**(ADV. SHOBHA GUPTA)**

ADVOCATE FOR THE APPLICANT/PETITIONER

New Delhi

Filed On : 13.11.2019

**IN THE SUPREME COURT OF INDIA  
(S.C.R., ORDER XXII RULE (2)(1))  
(CRIMINAL APPELLATE JURISDICTION)  
SPECIAL LEAVE PETITION**

(Under Article 136 of the Constitution of India)

**SPECIAL LEAVE PETITION (CRIMINAL) NO. \_\_\_\_\_ OF 2019  
(WITH PRAYER FOR INTERIM RELIEF)**

(Arising against the impugned Final Order dated 07.11.2019 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Application No. 39538/2019.)

**IN THE MATTER OF:**

Miss 'A' .....Petitioner  
(At present lodged in Central Jail,  
Shahajahanpur, UP, since 20.08.2019)  
Through Shivam Sharma (brother)

VERSUS

The State of Uttar Pradesh & Anr. ....Respondents

**WITH**

**I. A. NO. \_\_\_\_\_ 2019: APPLICATION SEEKING PERMISSION  
TO FILE SPECIAL LEAVE PETITION.**

**AND**

**I. A. NO. \_\_\_\_\_ 2019: APPLICATION FOR EXEMPTION FROM  
FILING CERTIFIED COPY OF THE  
IMPUIGNED ORDER.**

**AND**

**I. A. NO. \_\_\_\_\_ 2019: APPLICATION FOR EXEMPTION FROM  
FILING OFFICIAL TRANSLATION.**

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

**ADVOCATE FOR PETITIONER: ADV. SHOBHA GUPTA**

**FILED ON: 13.11.2019**

**APPENDIX**

**Photocopy of section 164, 207 and 208 CrPC**

To,  
The Registrar,  
Supreme Court of India,  
New Delhi.

**IN THE MATTER OF: SLP (Cr1.) No.        OF 2019**

Miss 'A'  
(At present lodged in Central Jail,  
Shahajahanpur, UP, since 20.08.2019)  
Through Shivam Sharma (brother)

Versus

The State of Uttar Pradesh & Anr.

**URGENT LETTER**

Dear Sir,

There is urgency in the matter and the undersigned would be mentioning the matter on 14.11.2019 for urgent listing on 15.11.2019. Please mark this matter for urgent numbering.

Thanking you.

Yours Sincerely

**(ADV. SHOBHA GUPTA)**

For Petitioner

Dated: 31.11.2019

**Paste this letter on letter of Adv. Shobha  
Gupta and Take printout**