

ITEM NO.22

COURT NO.16

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Suo Moto Writ Petition (Cr1.No(s). 1/2019

IN RE ALARMING RISE IN THE NUMBER
OF REPORTED CHILD RAPE INCIDENTS

Petitioner(s)

Respondent(s)

(Mr. V. Giri, Sr. Advocate (A.C.), Mr. Krishna Dev Jagarlamudi, Adv
and Ms. Uttara Babbar,)

WITH

W.P.(C) No. 819/2019 (PIL-W)

(FOR INTERVENTION APPLICATION ON IA 137755/2019

IA No. 175087/2019 - EXEMPTION FROM FILING O.T.

Date : 08-01-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA

HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For the appearing parties:

By Courts Motion

Mr. V. Giri, Sr. Adv. (A.C.)

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Mr. Rakesh Kumar Singh, Judicial Officer

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Mr. G. Prakash, AOR

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

Today the matters were listed for taking up the issue with regard to the State of Assam and Union Territory-Jammu and Kashmir. State of Assam has filed an affidavit indicating that ten POCSO Courts have already been set up and three will be set up in near future. Five existing Additional Sessions Judge Courts have been earmarked as POCSO Courts and ten new Courts to

deal with POCSO cases will be set up. The action appears to be in terms of our earlier orders. We would like to direct that State of Assam and Registrar General of J&K High Court to file affidavits clearly stating that POCSO Courts shall deal exclusively with POCSO matters and not deal with any other matters These affidavits to be filed by 28th February, 2020.

List on 6.3.2020.

Jammu and Kashmir

On the last date i.e. 16.12.2019 in respect of the Union territory J&K we had passed the following order:

"Keeping in view the peculiar situation of the Union Territory of Jammu and Kashmir, we direct that fresh affidavit be filed by the State as well as the Registrar General of the High Court on or before 6.1.2020.

List on 8.1.2020."

No affidavit has been filed either by the Union Territory of J&K or by the High Court. Learned counsel for the Union Territory of J&K refers to the affidavit filed on 15th December, 2019 which clearly shows that there are no exclusive courts set up in the J&K to deal with POCSO matters. We had passed order dated 16.12.2019 which clearly laid down the criteria that in any District which has more than 100 POCSO cases, there will be atleast one exclusive POCSO Court and in any District where there are more than 300 POCSO cases, there should be atleast two POCSO Courts. We direct the Chief Secretary of the Union Territory of J&K to sit with the Registrar General of the High Court of J&K on or before 24th

January, 2020. They shall prepare a chart of POCSO cases in each District. If there are more than 100 cases in any District then in pursuance of our directions dated 16.12.2019 one exclusive POCSO Court shall be set up and made functional before 1st March 2020. We make it clear that in case there is no District having more than 100 cases then there is no need to set up exclusive POCSO Court.

List on 6.3.2020.

Letters sent by daughter of Mr. Kuldeep Singh Sengar

The complaint letter had been filed by the daughter of Mr. Kuldeep Singh Sengar. Keeping in view the fact that trial is completed and Mr. Kuldeep Singh has been convicted there is no need to pursue this matter.

EXCLUSIVE PUBLIC PROSECUTERS FOR POCSO (The Protection of Children from Sexual Offences) COURTS

In our earlier orders we had emphasised the need to have exclusive Special Public Prosecutors for POCSO cases.

Section 32 of the POCSO Act clearly lays down that there shall be Special Public Prosecutors for the POCSO cases. Sub-Section 1 of Section 32 reads as follows:

"Every State must by Notification appoint a Special Public Prosecutor for every Special Court for conducting cases only under the provisions of the Act."

(Emphasis supplied)

The language of the Act leaves no manner of doubt that the Special Public Prosecutor under the Act should not deal with other cases.

There is a salutary reason for appointing Public Prosecutors exclusively for POCSO cases. Public Prosecutors must be trained to deal with child victims and child witnesses. They need to understand the psychology of children. They need to empathize with children. They need to know how to bring out the truth from children who are victims of sexual abuse and have to undergo the trauma again while recounting the traumatic experience.

The job assigned to the Public Prosecutor for POCSO cases is a very onerous one which must be carried out with great care and sensitivity. Therefore not only is there a need to have exclusive Public Prosecutors but there is also a need to develop a training programme where these Special Public Prosecutors should be trained to deal with issues which will arise in their Courts. These issues may not be confined to legal issues which otherwise Public Prosecutors may be trained to deal with. The issues may be

psychological, health and other related issues.

Keeping in view these factors, we direct all the States who are present before us to take steps to appoint exclusive Public Prosecutors in all the Courts which have been set up exclusively for POCSO cases. We request the Chief Justices of all High Court to ensure that in the Judicial Academy of the State special programmes are developed so that these Special Public Prosecutors attached to POCSO Courts are imparted training not only in law but also in child psychology, child behaviour, health issues etc. We also request the Director of the National Judicial Academy to ensure that a training programme is developed in the National Judicial Academy to train master trainers who can then work in the Judicial Academies in each State. We realize that the National Judicial Academy cannot train all the Special Public Prosecutors in the country but they can prepare a team of master trainers who can travel from State to State to impart training to the persons appointed as Special Public Prosecutors.

A copy of this order may be sent to the Registrar General of each High Court to be placed before the Chief Justice of the High Court. A copy be also sent to the Director of National Judicial Academy. We request the Director of National Judicial Academy and the Registrar Generals of the High Courts to file responses to our suggestions on or before 28th February, 2020.

List on 6.3.2020.

Forensic Science Laboratories

The issue of FSL shall also be taken on 6th March, 2020 but we direct all the States to file affidavits till 28th February, 2020 giving the latest status with regard to development of infrastructure of Forensic Science Laboratories to deal with the matters relating to POCSO cases.

Human Rights Courts

Matters relating to establishment of Human Rights Courts, to be listed on Monday i.e. 13.1.2020.

State of Madhya Pradesh

Mr. Rahul Kaushik, learned counsel states that he had filed two applications on behalf of the State of Madhya Pradesh. List those applications on Monday i.e. 13.1.2020.

(SUMAN WADHWA)
AR CUM PS

(PRADEEP KUMAR)
BRANCH OFFICER

