

FIR No. 987/2005
PS:- Rohini
State Vs. Bhim Singh

25-02-2017

Present: Sh. A.B. Asthana, Ld. Addl. PP for State.

Accused on bail with counsels Sh. Ranbir Singh and Sh. Anuj Kumar Rajvanshi.

Reply has been filed by defence. Copy supplied to Ld. Addl. PP.

Prosecution seeks to examine Sharanjeet through commission as per Chapter XXIII-B Cr.P.C. I have seen provisions contained u/s 284 Cr.P.C. to 290 Cr.P.C. According to Ld. Addl. PP, there is a prescribed format for interrogation/examination of the witness. Ld. Addl. PP has stated that in view of previous correspondence between Director (Prosecution) and Ministry of Home Affairs, since the video conferencing is not possible, it will be appropriate to take-up the matter with Swiss authorities through Mutual Legal Assistance Request. Standard format of such request is already on record. A copy thereof be supplied to learned defence counsel.

Defence counsel has, however, maintained and insisted that Court cannot go for appointment of commission as per aforesaid MLA request as the Switzerland is having different criminal law system known as "Civil Law" whereas this country (India) is governed by "Common Law System" and the principle of fair trial would be seriously jeopardized and compromised in case the witness is examined by applying the aforesaid procedure. However, such question is left open for the time being and would be gone into at appropriate stage. Fact remains that there does not seem to be any other option of examining said crucial witness. It will be, therefore, appropriate to follow the mandatory procedure contained under Chapter XXIII-B Cr.P.C.

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Put up on **04/03/2017** for further consideration. Ld. Addl. PP is requested to take assistance of all concerned including IOs and DCP, North-West and concerned Law Officers and Under Secretary of Ministry of Home Affairs for the purpose of processing such request. A draft of request may also be prepared and be placed before the Court on next date.

(MANOJ JAIN)

ASJ (FTC) N-W Distt: Rohini: Delhi
25-02-2017