

CNR No: WBSP01-000500-2020  
Present: Subhra Som Ghosal  
J.O Code: WB00984  
JJB Case No: 03 of 2020  
CIS No. Special Court Cases/3/2020

Order No. 40, dated: 26-09-2023.

The C.C.L has been produced today.

As stipulated by the previous order today is fixed for recording of further evidence of P.W-01/victim.

The witness has appeared today from Lumbini Park Mental Hospital with the assistance of Lisha Manna, GDA.

On call the Ld. Public Prosecutor-in-charge as well as the Ld. Advocate for the CCL are found to be present.

Considering the fact that the witness i.e. P.W-01/victim has been produced from a Mental Hospital, this Court with the objective of ensuring a safe and conducive environment for recording the evidence of witness, interacted with the witness/victim prior to recording of her evidence. Through such interaction it transpired before this Court that the witness is a bit hesitant, tentative and is still traumatized and needs to be comforted so as to ensure that she is able to reveal what happened to her when she is subjected to an examination and cross-examination during recording of her evidence.

It is axiomatic from the case record that in this case the witness/victim is a “person with disability” as defined under Section 2(s) of the Rights of Persons with Disabilities Act, 2016 and she is a survivor of offence punishable under section 366/323/376D of the Indian Penal Code, 1860.

In this circumstances this Court has no dichotomy that it is a fit case where the **‘Guidelines for Recording Evidence of Vulnerable Witnesses’ notified vide Notification No. 3688-RG dated – 29<sup>th</sup> July, 2022** should be resorted to as the witness/victim qualifies to be “vulnerable witness” for the purpose of the aforementioned guidelines [Rule 3(a)(iv) of the Guidelines].

It has been categorically mentioned in the Guidelines that the object of the Guidelines is to respond effectively to the needs of vulnerable witnesses and to enable vulnerable witnesses to depose freely before any court in a safe and secure environment as well as to minimize harm or secondary victimization of vulnerable witnesses in anticipation. Thus is Court must approach the circumstances of this case staying alive to such avowed object.

While interacting with the witness/victim specifically expressed before this Court that in order to enable her to depose freely and in a more secured and comfortable manner, it will be immensely helpful for her if assistance of any expert/support person is provided to her.

The Ld. Public Prosecutor-in-charge also submitted in resonance to the version of the witness/victim.

As per Rule 12 of the **‘Guidelines for Recording Evidence of Vulnerable Witnesses’** this Court has ample jurisdiction to take the assistance of an interpreter, translator, special educator or expert, wherever necessary, to enable recording of evidence of vulnerable witnesses.

**Hence the District Social Welfare Officer, South 24 parganas at Alipore is directed to ensure appoint of one expert before the next date, so as enable the witness/victim to depose freely and in a robust manner. While making such appointment, age, level of maturity or special individual needs of the witness/victim, which may include but are not limited to disabilities, ethnicity, special assistive measures to encourage participation of the victim/witness in the justice process must be kept in mind.**

Given the condition of the victim and nature of offence being perpetrated on her, it is will absolute abdication of my duty if no further steps are taken to ease the condition of the victim/witness.

**Rule 25** of the **‘Guidelines for Recording Evidence of Vulnerable Witnesses’** makes it mandatory for the Court to apply its mind to the question of award of compensation in every case involving a victim who is a vulnerable witness. With this objective in mind the person accompanying the victim was asked as to whether the victim has been extended the benefit of West Bengal Victim Compensation Scheme of 2017. Taking information from the

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Investigating Officer, it was submitted before this Court that a process was initiated with the DLSA, South 24 parganas at Alipore and it was numbered as Victim Compensation Case No. 19 of 2020 but further development of such is not known and no compensation has yet been provided to the victim.

**In view of such fact, the Ld. Secretary, DLSA, South 24 parganas at Alipore is requested to inform this Court on or before the next date, as regards the present position of the Victim Compensation Case No. 19 of 2020 and what are the predicaments faced by him for grant of compensation to the victim as per the existing laws and procedure.**

**Rule 2 of the ‘Guidelines for Recording Evidence of Vulnerable Witnesses’** provides that the guidelines shall be liberally construed and interpreted, in view of the extant laws, to uphold the interests of vulnerable witnesses and to promote their maximum accommodation without prejudice to the right of the accused to a fair trial and due process. Hence Rule 25 can be given an extended meaning to encompass within its ambit the scope to provide further benefits of the victim, to which she is entitled to as per existing benevolent schemes of the Government.

**Hence Additional District Magistrate (Social Welfare), South 24 parganas at Alipore is requested to look into the matter and provide the benefits of Social beneficial Schemes of the Government as per the requirement and entitlement of the victim. A report to that effect be submitted on or before the next date before this Court.**

With the above observations and in order ensure reasonable time for effective implementation of this order, the case is adjourned on this date.

**The CCL be remanded to custody and be produced on 10-10-2023.**

Let a copy of this order sheet be sent to the Secretary, DLSA, South 24 parganas at Alipore, Additional District Magistrate (Social Welfare), South 24 parganas at Alipore, DSWO, South 24 parganas at Alipore for their information and compliance.

Typed by me and;  
corrected on the system.

Additional District and Sessions Judge,  
01<sup>st</sup> Court, Alipore, South 24 parganas.

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