



\$~63

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 1166/2024 CRL.M.A. 28697/2024**
LENIN RAGHUVANSHIPetitioner
Through: Mr. Satish Tamta, Sr. Advocate Mr.
Dhruv Tamta, Mr. Shariq Iqbal, Ms.
Manavi Joshi, Advocates.

versus

STATE (N C T OF DELHI)Respondent
Through: Mr. Hitesh Vali, APP for State with SI
Dharmendra PS: Paharganj.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
23.09.2024

CRL.M.A. 28696/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Applications are disposed of.

CRL.REV.P. 1166/2024

1. This petition has been filed assailing the order dated 31st August, 2024, passed by the ASJ, disposing the application filed by the State for examination of prosecutrix through Video Conferencing and an application under Section 311 Cr.P.C. for summoning the prosecutrix.
2. Senior Counsel for petitioner states that prosecutrix has refused to appear on earlier occasions and therefore, the Trial Court on 7th July, 2023 stated that no more summons be issued to the prosecutrix.
3. However, by this said order, the Court has stated that the right of the



prosecution to examine the prosecutrix has not been closed.

4. Moreover, it is noted by order dated 13th October, 2023, that prosecutrix had expressed a willingness to depose through video conferencing. The Sessions Court, therefore, has fixed the matter on 28th September, 2024 for the prosecution to file proforma as per Video Conferencing Rules for further proceedings.

5. In the opinion of this Court, there cannot be any impediment in the prosecutrix to depose considering that she is a victim of allegation of rape and offence under Section 376 IPC. She is not resident in India and is apparently a citizen of the United States of America and has had difficulty deposing on previous dates. The proceedings as stated, shall continue, through video conference.

6. Senior counsel for petitioner, however, challenges the maintainability of the application under Section 311 C.r.P.C., which was moved by the State, and was disposed of in favour of the State, contending that Section 311 C.r.P.C., can only be moved once the particular witness has been examined previously as well, which was not the case in the facts of this matter.

7. As regards the objection on section 311 Cr.P.C, issue notice, APP for State accepts notice, who shall file a response/ status report before the next day of hearing.

8. List on 18th November, 2024.

9. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 23, 2024/RK