

Chief Justice's Court

Case :- CRIMINAL WRIT-PUBLIC INTEREST LITIGATION No. - 3 of 2023

Petitioner :- Ram Kaushik

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Ram M. Kaushik

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Ashutosh Srivastava,J.

1. This Court vide order dated 03.09.2023 after taking suo-moto cognizance of the gruesome incident involving the prosecutrix 'x' on the Railway Train "Saryu Express" on the intervening night of 30/31.08.2023 directed the Registry to register the instant Public Interest Litigation (Crl.) and issue notices to the Union of India through its Secretary, Ministry of Railways/Railway Board, New Delhi, Director General of Railway Protection Force (RPF), State of U.P. through its Secretary, Ministry of Home and State Commission for Women, Uttar Pradesh. We also required the State Counsel to place the Case Diary before the Court and also required the Investigating Officer to remain present before the Court today i.e. 04.09.2023 at 12:00 AM.

2. Pursuant to the directions of this Court, the Superintendent of Police, GRP (Railway), Smt. Puja Yadav and the Dy. Superintendent of Police, GRP Lucknow have appeared before us. The Superintendent of Police, GRP submits that she is heading the Investigation. She has apprised us of the steps taken for nabbing the offender/offenders and also the progress of the investigation so far. She has informed that at present five teams comprising of police personnel of the rank of Circle Officer and Dy. Superintendent of Police have been set up and are carrying on the investigations. It has also been informed that the prosecutrix 'x' is under medical treatment at the Trauma Centre of KGMU, Lucknow and is responding well and associates with the Superintendent of Police, GRP Railway by gestures, however, is unable to talk. It has been informed on our specific query as to whether the prosecutrix 'x' was subjected to any sexual assault the Superintendent of Police, GRP has informed that as per current examination reports the victim has not been subjected to any sexual assault. She has also informed that injuries have been inflicted upon the face and upper body parts of the prosecutrix 'x' by sharp edged weapon presumably a chopper and intensive combing operations have been undertaken along approximately 10 KMs of the railway track near Ayodhya Railway Station to trace the weapon. The statements of escort guards of the train in question and vendors at the Railway Station have been recorded under Section 161 Cr.P.C. and close associates of the victim, family members, friends etc. are also being questioned. The Forensic Team has also extensively scanned the Railway Coach in which the incident is said to have occurred and the results are being processed. The CCTV Camera footage from the Railway Stations are also being

processed to get to the bottom of the truth behind the incident. The Superintendent of Police, GRP Railway has assured this Court that no stone would be left unturned to nab the culprits.

3. After hearing about the progress of the investigations so far from the Superintendent of Police, GRP, Railway, at this stage, we have no doubt that the investigation is proceeding in the right track and would bring results fast. However, we find that the statement of the victim/ prosecutrix 'x' under Section 161 Cr.P.C. or 164 Cr.P.C. has not been recorded so far. In our opinion, it is a vital piece of evidence which will throw some light and carve out the path on which the investigation can proceed hence forth. We feel that the statement has not been recorded as the prosecutrix 'x' is not in a position to present herself before the Magistrate concerned.

4. In such circumstances, we direct the Magistrate having jurisdiction to visit the prosecutrix 'x' in the Trauma Centre of KGMC, Lucknow, where she is hospitalized and record the statement of the prosecutrix 'x' and submit report by the next date fixed. We also direct that the prosecutrix 'x' be examined by a Team of five Doctors comprising of three Senior Gynaecologists, one Surgeon and one Medicine of the KGMU, Lucknow and a report be submitted by the next date fixed in the matter. The constitution of the Team of Doctors shall be done by the Dean of the KGMU, Lucknow.

5. We also direct the Railway Authorities to provide all necessary assistance, including motorized inspection trolleys, to the investigation team to carry out combing operations along the railway track to locate the weapon and other evidence.

6. State Counsel is obliged to serve copy of this order to all the respondents by tomorrow.

7. List this case on 13.09.2023.

Order Date :- 4.9.2023

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(Ashutosh Srivastava, J) (Pritinker Diwaker, CJ)