

IN THE HIGH COURT OF JHARKHAND AT RANCHI
B.A. No. 12960 of 2022

Jishu Tudu

... Petitioner

-versus-

The State of Jharkhand

... Opposite Party

CORAM : HON'BLE MR. JUSTICE ANANDA SEN

For the Petitioner : Mr. Gautam Kumar, Advocate
For the State : Mr. Azeemuddin, A.P.P

06/ 13.01.2023 Counsel for the petitioner submits that the victim has been examined in chief, but, due to paucity of time, she could not be cross-examined, which would be apparent from the photocopy of the deposition sent to this Court.

Pursuant to the last order, photocopy of the deposition has been forwarded to this Court by the Trial Court. From the said deposition, I find that the victim was partly examined on 5th January, 2023. She was examined in chief, but the Court recorded, that due to paucity of time, victim could not be cross examined. Till today, the victim is yet to be cross examined.

Recording evidence of witnesses in chief on a particular date and thereafter deferring the cross-examining is not proper. Reason may be whatever including paucity of time, but, the Court should not defer cross-examination of a witness to any other day, as the scope of tampering with the evidence increases. The Hon'ble Supreme Court in the case of **Vinod Kumar versus State of Punjab** reported in (2015) 3 SCC 220 at paragraph 57.4 has held as under:-

57.4 In fact, it is not at all appreciable to call a witness for cross-examination after such a long span of time. It is imperative if the examination-in-chief is over, the cross-examination should be completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross-examination. It is inconceivable in law that the cross-examination should be deferred for such a long time. It is anathema to the concept of proper and fair trial.

In this case, the victim has been examined in chief, however, her cross examination has been deferred. The Hon'ble Supreme Court has held that it is imperative if the examination-in-chief is over, the cross-examination should also be completed on the same day and only where it is necessary, the same could be adjourned for the next day. The observations made by the

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Hon'ble Supreme Court is with regard to cross-examination of a witness. In the present case, the witness is none other but the victim herself.

Considering the aforesaid, I direct that henceforth, when a victim is examined in chief on a particular date, effort should be made to conclude the cross examination on the very same day. For doing so if the Court has to sit beyond the Court hours, the Court shall do so and only after discharging the victim will conclude the day's proceeding. In exceptional case, the same can be deferred to the next day. It is also made clear that when a victim is produced in Court with other witnesses, then the Court, only after recording the evidence of the victim, will proceed to record the statement of other witnesses.

Let this order be communicated to all the Judicial Officers within the State of Jharkhand for strict compliance.

List this case after two weeks

Sd/-

(ANANDA SEN, J.)

Kumar/S K/Cp-02

True Copy

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Sr. Secretary/ Secretary/ Sr. P.A/P.A

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