

Boy Allowed Presence Through Video conferencing in Transfer Petition

A.F.R.

Court No. -

Case :- TRANSFER APPLICATION (CRIMINAL) No. -

Applicant :-

Opposite Party :-

Counsel for Applicant :-

Counsel for Opposite Party :-

1. Heard learned counsel for the parties.
2. The present transfer application has been filed for transfer of the Case () under Section 125 Cr.P.C. pending before the Principal Judge, Family Court, to the court having competence jurisdiction in District .
3. It is submitted by learned counsel for the applicant that the applicant is wife, who has filed application under Section 125 Cr.P.C. The application was filed before the Principal Judge, Family Court, . However, when the applicant visits the Court, opposite party no.2 and his family members physically assaulted the applicant. There is apprehension of danger of life of the applicant. The applicant has also sought transfer on the ground of financial crisis.
4. The country is witnessing a revolution in the digitalisation activity. The digitalisation is not only about implementation of technology. It encompasses the transformation of the courts and justice delivery system using technology in order to enable the experiences to be better, effective and within the reach of the ordinary citizens. The digitalisation is bridging the gap between the courts and the litigant. The process of digitalisation has enabled the

litigant to approach the various forum of justice delivery system and the issue of distance of the courts and convenience of parties have been effectively addressed. The Courts has put in place various digitalisation processes including addressing the court through video conference. Further, with the advancement of technology and telecommunication including internet services the litigant is empowered to approach his counsel through telecommunication/Internet. The process of digitalisation and technology advancement has further been accelerated during the pandemic. The digitalisation and technology are playing a crucial role in ensuring the efficient last mile delivery of services to citizens. Even during the pandemic, the courts have delivered justice to the citizens without the citizens being physically present at the place where the court is situated and in this respect the role of digital technology has been crucial. A citizen has all the means in place to approach the Court using the digital process and technology. The Internet, emails, e-filing and video conference have revolutionised the way a person can communicate and avail Justice. In the recent past, the country has witnessed "work from home" as an important tool for the working class and on the same footing various measures have been taken by the courts for enabling the citizens to get "justice at doorstep" and the distance between the citizen and the court is of no consequence as a result of the digital process.

5. The Apex Court has constituted an e-committee, Supreme Court of India for effective implementation of the Information and Communication Technology (ICT) by the Judicial system in India. The e-committee is the governing body charged with overseeing the e-courts project conceptualized under the National Policy and

Action Plan for Implementation of Information and Communication Technology (ICT) in Indian Judiciary. The project is funded by the Government with the vision to transform the Judicial system of the country by ICT enablement of Courts.

6. Digital disruption is the change that occurs when new digital technologies and models affect the value proposition of existing services. The transformation of the legal services through information and technology is a big step to revolutionise legal services in India. The information and technology induction will enhance the Judicial productivity both qualitatively and quantitatively, making the justice delivery system accessible, reliable, cost effective and transparent.

7. One of the important object of the involvement of digital process in the judiciary is to bridge the gap between the courts and the litigants. A digital judiciary will enhance the capability of Justice Delivery system and further will bring "ease of Justice" to the litigant. One of the important aspect in the judicial system is that the litigant have to approach the court physically to participate in the proceedings of the court. The digitalisation process in order to facilitate the approach of the litigant to the courts have set up video conference facility as a tool for the litigant to participate in the court proceeding through virtual mode. A drastic step in this respect has been taken by Allahabad High Court by framing "Rules for Video Conferencing for Courts in the State of Uttar Pradesh,

(for brevity herein after referred to as)
which has been notified by notification dated

The principal object of the aforesaid rules is to consolidate, unify and streamline the procedure relating to the use of video conference for the Courts. The whole aim of the aforesaid rules is

to provide the litigant access to the courts in the state through video conference. Rule 2(xv) of the above-mentioned rules defines "Video Conference" to mean and include court proceedings conducted by transmission of simultaneous audio and video signals in real-time between the remote point and court point and vice versa over a wired or wireless network or combination thereof. It also includes transmission of the readable images of document.

8. The General Principles governing the video conference has been envisaged in Rule _____, which are as follows:

"3. General Principles Governing Video Conferencing

(i) Video conferencing facilities may be used at all stages of judicial proceedings and proceedings conducted by the Court.

(ii) All proceedings conducted by a Court by way of video conferencing shall be judicial proceedings and all the courtesies and protocols applicable to a physical Court shall apply to these virtual proceedings. The protocol provided in Schedule I shall be adhered to for proceedings conducted by way of video conferencing.

(iii) All relevant statutory provisions applicable to judicial proceedings including provisions of the Code of Civil Procedure, 1908, Code of Criminal Procedure, 1973, Contempt of Courts Act, 1971, Indian Evidence Act, 1872 (abbreviated hereafter as the Evidence Act), and Information Technology Act, 2000 (abbreviated hereafter as the IT Act), shall apply to proceedings conducted through video conferencing.

(iv) Subject to maintaining independence, impartiality and credibility of judicial proceedings, and subject to such directions as the High Court may issue, Courts may adopt such technological advances as may become available from time to time.

(v) The Rules as applicable to a Court shall *mutatis mutandis* apply to a Commissioner appointed by the Court to record evidence and to an enquiry officer conducting an inquiry.

(vi) There shall be no unauthorized recording of the proceedings by any person or entity.

(vii) The person defined in Rule 2(xii) shall provide identity proof as recognised by the Government of India/State Government/Union Territory to the Court point coordinator *via* personal e-mail. In case identity proof is not readily available the person concerned shall furnish the following personal details: name, parentage and permanent address, as also, temporary address if any."

9. The procedure for applying for participation through video conference in the court proceedings is envisaged in chapter III of the Rules of 2020. Rule 6 of Chapter III provides for the procedure to be followed for applying for video conference. Rule 6 is quoted herein below :-

"6. Application for Appearance, Evidence and Submissions through Video Conferencing:

6.1 Any party to the proceeding or witness, save and except where proceedings are initiated at the instance of the Court, may move a request for video conferencing. A party or witness seeking a video conferencing proceeding shall do so by making a request in the form prescribed in Schedule II.

6.2 Any proposal to move a request for video conferencing should first be discussed with the other party or parties to the proceeding, except where it is not possible or inappropriate to do so, for example, extremely urgent cases/applications.

6.3 On receipt of such a request and upon hearing all concerned persons, the Court will pass an appropriate order after ascertaining that the application is not filed with an intention to impede a fair trial or to delay the proceedings.

6.4 While allowing a request for video conferencing, the Court may also fix the schedule for convening the video conferencing.

6.5 In case the video conferencing event is convened for making oral submissions, the order may require the Advocate or party in person to submit written arguments and precedents, if any, in advance on the official email ID of the concerned Court.

6.6 Costs, if directed to be paid, by the order convening proceeding through video conferencing shall be deposited within the time specified in the said order."

10. Comprehensive rules have been put in place to adopt the technology in judicial proceedings in order to enable the litigants to approach the court through digital mode. The Rules of _____ gives choice to the litigant to approach court using digital technology. Various checks and balances have been provided under the aforesaid Rules of _____ to protect the sanctity of the judicial process.

11. The Rules of 2020 effectively address the concern of the litigants including the distance factor and threat perception. Once the Rules of 2020 have been notified in exercise of powers under Article 225 and 227 of the Constitution of India, for providing video conferencing to the litigant in the Courts and such an alternative channel will be able to address the concerns of the litigant as has been raised in the present transfer application. No ground for transfer of the case from one district to another is made out in view of the observations made hereinabove.

12. Under the circumstances, the present transfer application is *disposed of* with the liberty to the applicant to apply under Rules for Video Conferencing for Courts in the State of Uttar Pradesh, 2020 for video conference facility in judicial proceedings. It is hereby provided that in case any application is preferred by the applicant under the aforesaid Rules, the court/authority concerned shall be obliged under law to pass an appropriate order in accordance with law at the earliest. It is hereby directed that all courts and authorities shall act in aid of the Rules for Video Conferencing for Courts in the State of _____

Order Date :- _____

D. _____