

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s). 406/2023

TUSHAR GANDHI

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH &amp; ORS.

Respondent(s)

Date : 30-10-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Shadan Farasat, AOR  
Ms. Mreganka Kukreja, Adv.  
Ms. Hrishika Jain, Adv.  
Ms. Natasha Maheshwari, Adv.

For Respondent(s) Mr. K.M. Nataraj, A.S.G.  
Mr. Sharan Dev Singh Thakur, A.A.G.  
Ms. Ruchira Goel, AOR  
Mr. Siddharth Thakur, Adv.  
Ms. Indira Bhakar, Adv.  
Mr. Adit Jayeshbhai Shah, Adv.  
Mr. Sharanya Sinha, Adv.  
Ms. Keerti Jaya, Adv.

Mr. Rupesh Kumar, AOR  
Ms. Neelam Sharma, Adv.  
Ms. Pankhuri Shrivastava, Adv.  
Mr. Rajeev Sharma, Adv.  
Mr. Aryaman Sharma, Adv.

Mr. Sanjay Jain, Adv.  
Mr. Krishnanand Pandey, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Learned ASG appearing for the Home Department has filed a Status Report in terms of the earlier order dated 25<sup>th</sup> September, 2023.

Learned counsel appearing for the State of Uttar Pradesh, who is representing the other Departments, states that his counter affidavit in terms of the earlier order dated 25<sup>th</sup> September, 2023 is ready, but the same could not be filed as amended memo of parties was not filed. We permit him to file an affidavit in terms of the order dated 25<sup>th</sup> September, 2023.

Today, the learned counsel appearing for the petitioner has tendered an affidavit dated 28<sup>th</sup> October, 2023 of the father of the victim child. He states that as an officer of the Court, he has tried to interact with the victim child, but found that the child is severally traumatized. When it comes to the future of the victim child and his welfare, the State cannot treat this litigation as adversarial litigation. Copies of the said affidavit have been supplied to the learned counsel representing the State of Uttar Pradesh. We direct the State Government to file an affidavit of the concerned officer dealing with the affidavit dated 28<sup>th</sup> October, 2023, affirmed by the victim's father which is taken on record today.

A perusal of the Report submitted by the I.G., Meerut Range, Uttar Pradesh, shows that now the second proviso to Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 has been applied. Even Section 295A of the Indian Penal Code, 1860 (for short, "IPC") has been applied. It is stated that investigation has been complete and Government's sanction for applying Section 295A of the IPC is awaited. We direct the Government to immediately take a decision on the request for grant of sanction.

Looking to the assertions made in the affidavit of the victim's father, we are putting the State to the notice that we may consider of appointing an expert agency for the purposes of counselling of not only the victim child but the other children who were involved in the alleged incident.

List on 6<sup>th</sup> November, 2023.

(ASHISH KONDLE)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)