

ITEM NO.35

COURT NO.1

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 34251/2017

(Arising out of impugned final judgment and order dated 29-08-2017 in WP No. 22537/2017 passed by the High Court At Calcutta)

**NATIONAL COMMISSION FOR PROTECTION
OF CHILD RIGHTS & ORS.**

Petitioners

VERSUS

RAJESH KUMAR & ORS.

Respondents

(IA No.134201/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.134204/2017-EXEMPTION FROM FILING O.T. and IA No.134203/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 19-03-2018 This matter was called on for hearing today.

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD**

For Petitioners

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For Respondents

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Mr. S. Bhowmick, Adv.
Mr. S.C. Ghosh, Adv.

Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

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

It is submitted by Mr. Tushar Mehta, learned ASG appearing for the National Commission for Protection of Child Rights that he will file a Chart indicating the constitution of Human Rights Courts and appointment of Special Public Prosecutors by the States after collecting the data as per order dated 4.1.2018.

At this stage, we have been apprised that in certain States, there is non-compliance of Sections 25 and 26 of the Commissions for Protection of Child Rights Act, 2005. Sections 25 and 26 of the said Act read as follows:-

"25. Children's Courts. - For the purpose of providing speedy trial of offences against

children or of violation of child rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify at least a court in the State or specify, for each district, a Court of Session to be a Children's Court to try the said offences:

Provided that nothing in this section shall apply if -

(a) a Court of Session is already specified as a special court; or

(b) a special court is already constituted, for such offences under any other law for the time being in force.

26. Special Public Prosecutor.- For every Children's Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court."

Keeping in view the aforesaid provisions, it is directed that the Registrar Generals of the High Courts would submit a report as regards Sections 25 and 26 of the Act. After receipt of the report, the issue shall be addressed.

The Registry of this Court is directed to forward the earlier order and the present order to the Registrar Generals of the High Courts with the stipulation that the reports shall be submitted within two weeks from the date of receipt of the orders.

The pendency of this case shall not be construed as any kind of impediment for establishment of Courts and appointment of Special Public Prosecutors if steps in that direction have already been taken.

Matter be listed on 16.4.2018.

(Deepak Guglani)
Court Master

(TAPAN KUMAR CHAKRABORTY)
Court Master