

Cab rape survivor in SC on witness recall

'Traumatized' By Second Cross-Examination

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New Delhi: The Uber cab rape survivor moved the Supreme Court on Monday, challenging a Delhi high court order of March 4 allowing the accused's plea to recall 13 prosecution witnesses, including herself, for cross-examination. She pleaded she should not be put to unnecessary torture and harassment by going through the traumatic experience of being cross-examined all over again.

Appearing before a bench headed by Chief Justice H L Dattu, senior advocate Colin Gonsalves said the HC had erred in allowing recall of witnesses after the prosecution evidence was closed. He said the HC order would delay the trial court proceedings and pleaded for an urgent hearing in the case.

Agreeing to his plea, Justice Dattu posted the case for Tuesday.

The rape survivor said in her petition that the high court had passed the order without making her a party. "The order is unconstitutional and in breach of the principles regarding recall and re-examination under section 311 of CrPC. It causes substantial injustice to the complainant and goes against the very principles of speedy trial and Criminal Law Amendment Act, 2013," she said in her petition.

She said the HC allowed recall of witnesses despite finding no fault in the manner in which the trial was conducted. "The conclusion of the high court that it is the accused alone who stands to suffer on account of the delay is wrong as it is the victim who

suffers the most for having to go through a trial virtually from the beginning, all over again," the petition said.

The accused, Shiv Kumar Yadav, had first moved the trial court for recall of witnesses after he changed his lawyer. His plea was rejected by the court which observed that it was only an attempt on his party to prolong the trial.

Meanwhile, the father of the woman told reporters that his daughter was feeling "traumatized" due to irrelevant questions being asked by

Yadav's counsel, DK Mishra, had told the court about feeling traumatized, said sources. Only the accused, prosecutor and defence counsel, besides the survivor, were present in the courtroom. Her cross-examination remained inconclusive and is likely to continue on Wednesday.

Meanwhile, advocate Mishra sought a direction from the court to start proceedings in the morning session for providing sufficient time for the trial to be conducted on a day-to-day basis in compli-



The 26-year-old woman pleaded she should not be put to unnecessary torture and harassment by going through the traumatic experience all over again

the defence counsel. He was speaking to reporters after her statement was recorded before the trial court of additional sessions judge Kavari Baweja in in-camera proceedings. He said the fact that his daughter was being made to relive the incident again was proving to be tough for her. "She is being harassed and traumatized," he said.

According to sources, the woman, whose re-examination as a prosecution witness continued for the third day, requested the court to call her for cross-examination only on Saturdays, saying she has to go to office during weekdays. The court has asked her to move a proper application in this regard, sources said.

The 26-year-old woman, while being cross-examined

ance with the HC order. At present, the case is being heard in the post-lunch session. The advocate claimed an impression is being given in the orders of the court and by the prosecutor that he was delaying the trial without any meaningful cross-examination and traumatizing the survivor which was wrong. The application is pending.

According to the prosecution, the incident took place on the night of December 5 last year when the woman, a finance executive working in Gurgaon, was heading back home. Police said the woman had taken the taxi from Vasant Vihar to return to her house in Inderlok area of north Delhi and the accused, who took another route, allegedly raped her.