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**(2018) 07 CAL CK 0064**  
**In the Calcutta High Court**  
**Case No : C. R. M. 3630 of 2018**

Manoj Kumar Manna

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

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**Date of Decision :** 10-07-2018

**Acts Referred:**

Code Of Criminal Procedure 1973 — Section 284

Protection of Children from Sexual Offences Act, 2012 — Section 33, 35(1)

**Citation :** (2018) 07 CAL CK 0064

**Hon'ble Judges :** JOYMALYA BAGCHI, J;RAVI KRISHAN KAPUR, J

**Bench :** Division Bench

**Advocate :** Sandipan Ganguly, Sandip Dasgupta, Ayan Bhattacharya, Ayan De,Prantik Gorai, Jasmine Bardhan, Saswata Gopal Mukherjee, Pradipto Ganguly

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## Judgement

Report is filed on behalf of the Investigating Agency wherefrom it appears though on repeated occasions opportunity was given to produce the victim

girl, she was not produced in court for examination. The said report be kept with the record. Learned advocate for the de-facto complainant submits

that the victim girl is suffering from trauma and was indisposed. Hence, she could not be examined.

It is also submitted that an application has been made for holding her examination on commission under Section 284 of the Code of Criminal

Procedure. The next date for hearing of such application under Section 284 of the Code of Criminal Procedure has been fixed on 16th July, 2018.

We are not unconscious that the victim who is a minor has to be examined in a congenial atmosphere as envisaged under Section 33 of the POCSO

Act. However, such examination has to be done as promptly as possible in view of Section 35(1) of the said Act.

While we are not inclined to accede to the prayer of the de-facto complainant for examination of the victim girl by way of commission, however, we

direct the trial Judge to ensure that the victim girl is examined in the following manner :-

a) the victim girl shall be examined in camera in Court and if inconvenient, in the Chamber of the learned Judge in presence of her parents and if

necessary, a trained clinical psychologist. Safeguards shall be taken so that the child is not exposed in any way to the accused in the case; b) learned

Judge shall ensure that there is child friendly atmosphere in the Court at the time of examination of the victim;

c) Her examination is to be conducted in a humane manner under congenial surroundings and she shall not be subjected to prolonged interrogation

and/or aggressive cross-examinations which may adversely affect her physically or psychologically. Questions to be posed to the child in

cross-examination shall be handed over in writing to the trial judge and the latter, in turn, shall put them to the minor for her response;

d) the examination of the child shall be conducted, if necessary, after giving frequent breaks. However, such examination shall be concluded on a

single day without granting adjournments to the parties.Â Let this matter appear under the same heading on 18th July, 2018. Report be filed positively

on that day.