

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.1459 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Ms. Divya Jain, learned counsel for the applicant. Mr. V.K. Gemini, learned Deputy Advocate General for the State. Though this Court is principally not inclined to interfere in this C482 Application. But, looking to the vital interest of the present applicant, who is facing the trial for the offences under Sections 364, 302 and 201 of the IPC, has agitated his grievances, as against the impugned order dated 13.03.2023, by virtue of which, the learned Sessions Court has declined to pass any order on the application under Section 311 of the Cr.P.C., being Paper No.146क, on the ground, that it is not that he was not provided with an opportunity to cross-examine PW10. But, in fact, despite of having been provided with an opportunity, the applicant has to blame himself because he has not availed the same. The reason, which has been assigned therein for inability to cross-examine PW10, was on the ground, that the counsel was ailing. Ailment of a counsel should not be a detriment to a litigant, who has to establish his innocence before the Criminal Courts, but then

		the Court should be conscious that this should not be permitted to be adopted, as a strategy by an accused person facing trial to prolong the same. After having heard the learned counsel for the parties and taking a pragmatic view, the C482 Application is being disposed of with a request to the Court of 8th Additional Sessions Judge, Dehradun, that whichever is the next date fixed in the proceedings of ST No.48 of 2016, “State Vs. Sanjeev Chaudhary and Others”, if the applicant does not avail an opportunity to cross-examine PW10, who would be called by the Court, which is to be provided by the Sessions Court, the opportunity of cross-examination of the applicant of PW10 would automatically stand closed forever. This liberty is being granted subject to the condition, that the applicant would deposit a cost of Rs.5,000/- in the High Court Bar Association Advocates’ Welfare Fund. Opportunity of cross-examination to be granted on proof of deposit of cost being placed before the Court. In fact, this C482 Application is recurring in nature. Initially, the applicant has appeared upon closure of opportunity to cross examine PW11 which was done by an order dated 15.09.2023. In the instant C482 Application, the opportunity to examine PW10 has been closed. Hence, now the C482 Application is being preferred against the
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		order dated 13.03.2023. This C482 Application would stand disposed of subject to the above terms, but, it is made clear that if the applicant doesn't diligently participates in the proceedings of ST No. 48 of 2016, State Vs. Sanjeev Chaudhary and Others, no further opportunity of cross examination would be provided, in case, if it is closed on account of any dereliction on part of the applicant. Subject to the aforesaid, the C482 Application stands disposed of. (Sharad Kumar Sharma, J.) 30.10.2023 Mahinder
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