

**Court No. - 91**

**Case :- APPLICATION U/S 482 No. - 26327 of 2023**

**Applicant :- Sunder @ Rajeev And Another**

**Opposite Party :- State of U.P. and Another**

**Counsel for Applicant :- Swati Agrawal Srivastava**

**Counsel for Opposite Party :- G.A.**

**Hon'ble Gajendra Kumar,J.**

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record. None appears on behalf of applicants despite service of notice upon opposite party no.2.

2. This application under Section 482 Cr.P.C. has been filed by the applicants with the prayer to quash the impugned order dated 08.06.2023 passed by Additional Session Judge/ Special Judge POCSO-I, Amroha in Session Trial No. 377 of 2020, (State v. Sunder @ Rajeev and another) arising out of Case Crime No. 286 of 2020, under Sections 376D, 323 I.P.C. and 3 (2) 5A SC/ST Act and Section 3/4 POCSO Act, Police Station Gajraula, District J.P. Nagar (Amroha), whereby the application under section 311 Cr.P.C. filed by the applicant has been rejected by the trial Court and further prayer to stay the further proceedings of the aforesaid case has been made.

3. It is submitted by learned counsel for the applicants that at the stage of recording of statement under section 313 Cr.P.C. of the accused persons an application moved by the applicant/ accused under section 311 Cr.P.C. in which certain questions from questions nos.1 to 17 (page 56 of the application) were cited to be put to the prosecutrix and the application thus moved has been dismissed vide order dated 8.6.2023 in a mechanical way without

considering the importance of the questions which are necessary for the just decision of the case. Prayer has been made for giving one more opportunity by allowing the application under section 311 Cr.P.C. for further cross-examination from prosecutrix.

4. Learned A.G.A. has opposed the prayer and submitted that the application has been moved at a belated stage and at the fag end of the case when the case was fixed for statement of the accused under section 313 Cr.P.C. The purpose of section 311 Cr.P.C. is not to fulfill lacuna left in the case while cross-examining of the prosecutrix. As such there is no illegality in the impugned order.

5. In view of the submission made by learned counsel for the rival parties and from perusal of the impugned order dated 6.8.2023, it is apparent that order is well discussed and all the points have been taken into consideration while passing the order and it is specifically mentioned that the purpose of application under section 311 Cr.P.C. is not to fulfill the lacuna of the case and it has been filed at the fag end of the trial *i.e.* at the stage of 313 Cr.P.C. Therefore, I do not find any illegality or impropriety reflected in the impugned order. No case is made out for invoking inherent power of court under section 482 Cr.P.C.

6. The application therefore, stands **dismissed**.

**Order Date :- 22.11.2023**

Shiv