

Court No. - 87

Case :- APPLICATION U/S 482 No. - 37371 of 2023

Applicant :- Jalil @ Sameer

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Shweta Nishad

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. Present 482 Cr.P.C. application has been filed seeking quashing of order dated 12.07.2023 passed in Special Case No.73 of 2015 (State vs. Jalil @ Sameer) arising out of Case Crime No.605 of 2015, under Sections 376, 363, 366 I.P.C. and Section 3/4 POCSO Act, Police Station Ghughli, District Maharajganj.

3. Learned counsel for the applicant submits that after completion of examination of P.W.2, on the very same date opportunity for cross-examination has been closed. He next submits that at-least applicant must have given one more opportunity to cross examine the witnesses. He next submits that applicant moved an application under Section 311 Cr.P.C. on 06.07.2023 for cross-examination of P.W.2, which was rejected on the ground of laches. He next submits that in Section 311 Cr.P.C. it is very much clear that application for cross-examination may be filed at any time and further Section 313 Cr.P.C. also does not bar for recalling of witnesses, if required. Therefore, in the substantial justice, it is required on the part of the Court concerned to allow the application of applicant. Hence, the impugned order is bad and liable to be quashed.

4. Per contra, learned A.G.A. opposed the submission of learned counsel for the applicant and submits that in the application dated 06.07.2023 it is submitted that opportunity of cross-examination was closed on 01.10.2023, and thereafter, 20 dates are fixed, but no application has been filed under Section 311 Cr.P.C. Further, applicant has given an application without explaining delay in filling application under Section 311 Cr.P.C. at the stage of argument.

5. I have considered the rival submissions advanced by learned counsel for the parties and perused the record. From the perusal of application filed by the applicant under Section 311 Cr.P.C. dated 06.07.2023, it is apparently clear that opportunity for cross-examination of P.W.2 was closed on 01.10.2023, whereas in application dated 06.07.2023 under Section 311 Cr.P.C., no reason has been given, as to why it has been filed at the very belated stage.

6. I have also perused the impugned order dated 12.7.2023. Trial Court has rejected the application with the specific finding that trial has commenced from the year, 2015 and application under Section 311 Cr.P.C. has been filed after fixation of 20 dates from the date of closing of opportunity for cross examination, having no reasons for delay. Application is nothing, but an attempt to delay the completion of trial. Therefore, I find no illegality in the impugned order.

7. Application lacks merit and is accordingly **dismissed**. No order as to costs.

Order Date :- 12.12.2023

Amit