

GAHC010040012024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./74/2024

PRITAM TERANG
S/O KHORSING TERANG
R/O VILL- BOR NEURIA GAON, P.S. BORPATHAR, DIST. KARBI ANGLONG,
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE PP, ASSAM

2:MOROMI TISSOPI
D/O BORSING TISSO
R/O VIL KANIA ENGTI GAON
P..S. BORPATHAR
DIST. KARBI ANGLONG
ASSA

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

05.03.2024

Heard Mr. A. I. Uddin, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Sections 397/401 of the Code of Criminal Procedure, 1973, *read with* Article 227 of the Constitution of India challenging the order dated 09.02.2024 passed by the learned Special Judge (POSCO), Karbi Anglong in POSCO case No. 65/2023 corresponding to G.R. Case No. 200/2023 in connection with Borpathar Police Station Case No. 28/2023 which is registered under Sections 420/493/376(2)(n) of IPC, *read with* section 6 of POSCO Act, and charge sheet was submitted under the same sections, whereby, the said Court had rejected the prayer of the petitioner made under Section 311 of Cr. P. C. for re-cross examination of the alleged victim/PW-1.

It is submitted by the learned counsel for the petitioner, Mr. Uddin that the case has already been charge-sheeted and the victim of this case is already been examined as PW-1. After examining the PW-1, the accused/petitioner filed a petition under Section 311 of Cr. P. C. praying for re-cross examination of the PW-1/victim of this case stating that there are subsequent developments which needs to be brought in the record. He further submits that immediately after lodging of the First Information Report(FIR), the petitioner was arrested in connection with this case and after examining the victim only, he was released on bail. Thereafter, the petitioner married the victim and at present both are

living happily as husband and wife along with a baby. He further submits that, if, no opportunity is given to the accused/petitioner to re-cross examine the victim, to bring the subsequent development on record; prejudice will be caused to the petitioner.

In this context, Mr. Gogoi, learned Additional Public Prosecutor has submitted that it is a fact that the victim was a minor at the relevant time of the incident and thus, the allegation of sexual intercourse with the minor, attracts' the Section 6 of POCSO Act and hence, he submits that the learned Special Judge had rightly passed the order by dismissing the petition filed by the petitioner under Section 311 of Cr. P. C.

After hearing the submissions made by the learned counsels for both sides, I have perused the case record as well as the order passed by the learned Special Judge (POCSO), Karbi Anglong in POCSO Case No.65/2023, it is seen that victim was cross-examined at length by the defence side and hence, availed the opportunity to cross-examine the victim and thus, the learned Trial Court observed that the petition is not at all maintainable in the present case. But, considering the submissions made by the learned counsel for the petitioner regarding the subsequent development on record, I find it appropriate to interfere in the order passed by the learned Trial Court by giving an opportunity to the petitioner to re-cross examine the victim, which will also not cause any prejudice to the victim.

Accordingly, the present petition is allowed by directing the learned Special Judge (POCSO), Karbi Anglong to give one chance to the petitioner for re-cross examination of the alleged victim/PW-1.

With above observation, this criminal revision petition stands allowed and disposed of.

JUDGE

Comparing Assistant