

GAHC010066882024



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

Case No. : Crl.Rev.P./128/2024

MD. ABU SAHID @ ABU SAYED AHMED
S/O GYAS UDDIN AHMED
PERMANENT RESIDENT OF VILL- BARTHAL
DOLOIGAON, P.S. MOIRABARI, IN THE MORIGAON DISTRICT OF ASSAM

VERSUS

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

2:SALEHA KHATUN
W/O LATE JANAB ALI
R/O VILL- BORTHOL
KACHARIGAON

WARD O. 8
P.S. MOIRABARI

DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 01.04.2024

Heard Mr. S. Das, learned counsel for the petitioner. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the State/respondent No.1

2. This is an application filed u/s 397/401 read with Section 482 Cr.P.C. against the order dated 16.03.2024 passed by the learned Special Judge (POCSO), Morigaon in connection with POCSO case no 177/2021, u/s 376(3)/376(2)(f)/376(2)(n)/ 506 IPC read with section 6 of POCSO Act, 2012, pending in the court of learned Special Judge (POCSO), Morigaon, Assam.

3. It is submitted by the learned counsel for the petitioner that the case is at the stage of recording statement of the accused, defence witness and arguments. The informant was examined and cross examined in the year 2022. After that the statement of all the prosecution witnesses were recorded. Subsequently, after closing of the prosecution witnesses, the learned Special Public Prosecutor has filed a petition before the special judge to re-examine the informant i.e., PW1 u/s 311 Cr.P.C. But no specific ground has been mentioned in the petition by the Public Prosecutor as to why the re-examination of PW1 is required. It is only mentioned in the petition by referring the provision of section 22 (1) and 22 (3) of POCSO Act, wherein the petitioner is supposed to be prosecuted for making false statement before the court. However, the learned counsel for the petitioner submits

that a direction may be given to the Public Prosecutor to file a fresh petition for re-examination of PW1 in accordance with law.

4. On the other hand, learned Additional Public Prosecutor has admitted that no specific ground has been provided in the petition for re-examination of PW1 by the public prosecutor. Let the Public Prosecutor be allowed to file another petition showing specific grounds for re-examination of PW1 and the trial court shall consider the matter accordingly.

5. In view of the above, the order dated 16.03.2024 passed by the learned Special Judge (POCSO), Morigaon is set aside.

6. The learned trial court shall invite an application from the Public Prosecutor afresh in respect of re-examination of PW1 by following the provision of section 311 Cr.P.C. that re-examination of PW1 is required for just decision of the case. The revision petition is disposed of accordingly.

JUDGE

Comparing Assistant