

Court No. - 16

Case :- CRIMINAL MISC. WRIT PETITION No. - 4406 of 2024

Petitioner :- Surekha Devi

Respondent :- State Of U.P. Thru. Prin.Secy. Deptt. Of Home And 3 Others

Counsel for Petitioner :- Narendra Pratap Mishra

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Narendra Pratap Mishra, learned counsel for the petitioner and Sri Ashok Kumar Singh, learned A.G.A.-I for the State as well as perused the record.

The instant writ petition has been moved to quash the impugned order dated 24.04.2024 passed by learned Special Judge, POCSO Act, Ambedkar Nagar on the application under Section 311 Cr.P.C. dated 23.02.2024 in Case Crime No.208/2022, S.S.T. POCSO No.572 of 2022, under Sections 328, 504, 506 I.P.C. and Section 16/17 of POCSO Act, Police Station Ahirauli, District Ambedkar Nagar.

Learned counsel for the petitioner submits that the petitioner has moved an application under Section 311 Cr.P.C. before the learned court below for fresh cross-examination of the P.W.-1 and P.W.-2. He further submits that in the proceedings of the present case, the entire evidence has been completed and the case is fixed for statement under Section 313 Cr.P.C. of the accused. He further submits that the P.W.-1 and P.W.-2 may be called for fresh cross-examination for better adjudication of the case.

Learned A.G.A.-I for the State opposed the prayer made by learned counsel for the petitioner and he submits that the impugned order dated 24.04.2024 by which application under Section 311 Cr.P.C. moved by the petitioner was rejected has been rightly passed. There is no infirmity or illegality in the impugned order. The entire evidence is completed and the accused has been called for his statement to be recorded under Section 313 Cr.P.C. It is just a ploy adopted by the petitioner to delay the trial by moving the aforesaid application under Section 311 Cr.P.C. There is no justification to call the P.W.-1 and P.W.-2 for fresh cross-examination.

After considering the arguments advanced by learned counsel for the respective parties as well as after perusal of the impugned order, it appears that the learned trial court has rightly rejected the application under Section 311 Cr.P.C. moved by the petitioner before the learned trial court as the same is moved only with intention to delay the proceedings of trial. The P.W.-1 and P.W.-2 have already been cross-examined and the matter is fixed for statement of the accused to be recorded under Section 313 Cr.P.C. Thus, this Court finds no proper justification to entertain the instant writ petition and also to interfere in the impugned order dated 24.04.2024 passed by the learned trial court as the same has been rightly passed and there is no infirmity or illegality in the impugned order.

With the aforesaid observations, it appears that the present writ petition is devoid of merits and deserves to be dismissed, which is accordingly **dismissed**.

However, in the facts and circumstances of the case the learned trial court concerned is directed to expedite and conclude the proceedings of the aforesaid case expeditiously without granting any unnecessary adjournment to either of the parties from the date of receiving of copy of this order, unless there is some legal impediment or unless there is any order passed by the higher court staying the proceedings of the case.

Order Date :- 23.7.2024

Saurabh