

Court No. - 13

Case :- APPLICATION U/S 482 No. - 8527 of 2024

Applicant :- Shivkant Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. U.P. Lko. And Another

Counsel for Applicant :- Amit Kumar Awasthi

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania,J.

1. Heard.

2. The present application has been filed for the following main relief:-

"For the facts and circumstances as stated in the accompanying affidavit, it is expedient and necessary in the interest of justice that this Hon'ble Court may kindly be pleased to quash order dated 10.09.2024 passed by the Additional Principal Judge III, Family Court, Lakhimpur Kheri in Case No. 982/2017,982/2017, under section 125 Cr.P.C, P.S- Phardhan, District- Kheri by which application of applicant under section 311 Cr.P.C has been rejected.

It is also prayed that this Hon'ble Court may kindly be pleased to direct the learned court below to give one opportunity for cross examination with PW-1 & 2 in aforesaid case and till then in the interest of justice.

It is further prayed that during the pendency of this application, further proceedings in Case No. 982/2017, under section 125 Cr.P.C, P.S- Phardhan, District- Kheri at Additional Principal Judge III, Family Court, Lakhimpur Kheri, may kindly be stayed and an interim order to the said effect may kindly be granted."

3. The present application has been filed by the applicant challenging the order dated 10.09.2024, passed by Additional Principal Judge-III, Family Court, Kheri (in short 'trial court') on an application preferred by the accused/applicant under Section 311 Cr.P.C. praying therein to recall the P.W.-1 and P.W.2.

4. Brief facts of the case are to the effect that opposite party no.2/Juli Devi, on account of matrimonial dispute left her matrimonial home and started living with her parents and on account of financial crunch she preferred an application under Section 125 Cr.P.C. registered as Case No.982 of 2017.

5. Before the trial court the opposite party no.2 was examined as P.W.1 and she was duly cross examined by the applicant on 01.09.2023, 03.11.2023 and 17.11.2023. Thereafter the father of opposite party no.2 was examined as P.W.2

and he was also cross examined before the trial court on 16.12.2023 and 20.12.2023.

6. After the aforesaid, the applicant preferred an application dated 06.03.2024 under Section 311 Cr.P.C. praying therein to recall P.W.1 and P.W.2 for further cross examination.

7. The trial Court upon due consideration of the facts of the case rejected the application under Section 311 Cr.P.C. filed by the applicant for recalling of P.W.-1 and P.W.2 for further cross-examination vide impugned order dated 10.09.2024. The order dated 10.09.2024 is extracted hereinunder:-

"पत्रावली आदेशार्थ पेश हुई। पुकार कर उभय पक्ष मय विधिक सलाहकार उपस्थित। विपक्षी की ओर से प्रार्थना पत्र-84ख इस आशय का प्रस्तुत किया गया है कि उक्त वाद दिनांक 17.11.2023 को पी0डब्लू0-1 का साक्ष्य अंकित किया जा चुका है, परन्तु साक्षी जूली पी0डब्लू0-1 से उसके द्वारा कथित विवाह के संबंध में कुछ विशिष्ट तथ्य एवं विवाह के साक्षियों के बारे में तथा उसके मुख्य परीक्षा शपथ पत्र की धारा-6 व 9 में वर्णित कथनों के संबंध में तथा पी0डब्लू0-2 मनोज कुमार के द्वारा मुख्य परीक्षा शपथ पत्र की धारा-4 में वर्णित अभिकथनों के संबंध में भ्रम व भूलवश विपक्षी के अधिवक्ता के द्वारा जिरह नहीं की जा सकी है। मामले के न्यायसंगत विनिश्चय के लिए उपरोक्त दोनों साक्षीगण को पुनः जिरह के लिए न्यायालय में बुलाया जाना अति आवश्यक है। इसमें वादिनी के साथ कोई अन्याय नहीं होगा। यदि उपरोक्त मामले में उक्त वर्णित साक्षियों को पुनः जिरह के लिए बुलाया या रिकॉल नहीं किया जाता है तो न्याय निर्णय प्रभावित हो सकता है। ऐसी स्थिति में साक्षीगण को जिरह के लिए बुलाया जाना आवश्यक है। अतः प्रार्थना की गई है कि उपरोक्त वाद में साक्षी पी0डब्लू0-1 जूली तथा साक्षी पी0डब्लू0-2 मनोज कुमार को पुनः जिरह हेतु रिकॉल करने की कृपा करें।

विपक्षी द्वारा प्रस्तुत प्रार्थना पत्र के विरुद्ध वादिनी की ओर से आपत्ति प्रस्तुत कर कथन किया गया है कि दिनांक 28.02.2024 को विपक्षी द्वारा अपना साक्ष्य समाप्त किया गया और न्यायालय द्वारा पत्रावली बहस हेतु दिनांक 05.03.2024 को नियत की गई। दिनांक 5.3.24 को विपक्षी अधिवक्ता द्वारा बहस न करके स्थगन प्रार्थना पत्र दिया गया। दिनांक 6.3.24 को विपक्षी ने न्यायालय पर आकर सूचित किया कि उसके अधिवक्ता आज लंच के बाद दो बजे बहस हेतु उपस्थित होंगे, परन्तु लंच के बाद जब वादिनी मय अधिवक्ता न्यायालय के समक्ष उपस्थित आए, तब एक प्रार्थना पत्र धारा-311दं0प्र0सी0 का योजित कर विपक्षी द्वारा पुनः पी0डब्लू0-1 वादिनी एवं पी0डब्लू0-2 वादिनी के पिता से पुनः जिरह हेतु प्रार्थना पत्र दिया गया जो पोषणीय नहीं है। विपक्षी द्वारा प्रार्थना पत्र में भूल एवं भ्रम के कारण पी0डब्लू0-1 की शपथ पत्र की धारा-6 व 9 पर जिरह हेतु प्रार्थना पत्र दिया गया है, परन्तु उनके द्वारा दिया गया प्रार्थना पत्र असत्य है, चूंकि भूल एवं भ्रम एक बार के लिए हो सकता है। बार-बार नहीं, क्योंकि जब वादिनी ने दिनांक 02.08.2023 को साक्ष्य शपथ पत्र दाखिल किया तो उस पर वादिनी से जिरह न करके जिरह हेतु समय लिया और दिनांक 01.09.2023 को एक पेज जिरह की तथा दिनांक 3.11.23 को तीन पेज जिरह की गई तथा दिनांक 17.11.23 को जिरह पूर्ण की। इस प्रकार वादिनी से कुल 9 पेज जिरह की तथा पी0डब्लू0-2 से भी उसका शपथ पत्र दिनांक 21.11.23 को दाखिल किया गया। उस दिन जिरह न करके दिनांक 16.12.2023 को तीन पेज जिरह की और समय लिया तथा दिनांक 20.12.2023 को पांच पेज जिरह की। इस प्रकार कुल आठ पेज जिरह विभिन्न तिथियों पर करने के बावजूद भी वह वादिनी व उसके पिता को प्रताड़ित करने के उद्देश्य से यह प्रार्थना पत्र दे रहे हैं। क्योंकि विपक्षी इस वाद को निस्तारण नहीं होने देना चाहता है। उनका उद्देश्य वाद को लंबित रखना है और

ऐसा पूर्व में भी किया जा चुका है। विपक्षी द्वारा जिन बिन्दुओं पर जिरह करना बताया जा रहा है, उन बिन्दुओं पर विपक्षी के अधिवक्ता जिरह कर चुकें हैं। ऐसी दशा में प्रार्थना पत्र निरस्त करने की कृपा करें।

सुना तथा पत्रावली का परिशीलन किया। पत्रावली के परिशीलन से विदित हुआ कि प्रकरण में उभय पत्र का साक्ष्य पूर्ण हो चुका है तथा पत्रावली बहस के स्तर पर लंबित थी, जब विपक्षी द्वारा उक्त प्रार्थना पत्र अं० धारा-311 दं०प्र०स० वादिनी साक्षी संख्या-1 व 2 से विवाह तथा विवाह के साक्षियों के संबंध में पुनः प्रतिपरीक्षा करने हेतु प्रार्थना पत्र प्रस्तुत किया गया। प्रकरण में वादिनी साक्षी संख्या-1 की जिरह दिनांक 01.09.2023, 3.11.23 व 17.11.2023 की तिथियों में कुल 12 पृष्ठ पूर्ण की गई है तथा साक्षी संख्या-2 की प्रतिपरीक्षा दिनांक 16.12.2023, 20.12.2023 को कुल 11 पृष्ठ अंकित की गई है। इस प्रकार स्पष्ट है कि विपक्षी को साक्षी संख्या-1 व 2 से विस्तृत प्रतिपरीक्षा करने का पूर्ण अवसर प्राप्त हुआ है। उभय पक्ष का साक्ष्य पूर्ण होने के उपरांत कोई नवीन तथ्य प्रकाश में नहीं आया है। जिससे संदर्भ में विपक्षी को प्रतिपरीक्षा का अवसर दिये जाने की आवश्यकता होती। धारा-311दं०प्र०स० न्यायालय को यह शक्ति प्रदान करती है कि वह विचारण के किसी भी स्तर पर यदि आवश्यक समझे तो किसी भी आवश्यक गवाह को साक्ष्य में परीक्षित करने हेतु आहूत कर सकती है, परन्तु सुस्थापित विधि है कि उक्त शक्ति का प्रयोग किसी भी पक्षकार द्वारा अपने पक्ष की कमियों को पूर्ण करने के लिए नहीं किया जा सकता। प्रस्तुत प्रकरण में विपक्षी को वादिनी के साक्षियों से जिरह करने का पूर्ण अवसर प्राप्त हो चुका है तथा उसके द्वारा सभी साक्षियों से विस्तृत प्रतिपरीक्षा की गई है। विपक्षी द्वारा प्रार्थना पत्र में यह भी स्पष्ट नहीं किया गया है कि वह कौन से विशिष्ट प्रश्न साक्षी संख्या-1 व 2 से पूछना चाहता है। ऐसा प्रतीत होता है कि विपक्षी द्वारा उक्त प्रार्थना पत्र वाद के विचारण को पुनः प्रारम्भ करने तथा वाद की कार्यवाही को विलंबित करने के आशय से प्रस्तुत किया गया है। चूंकि वाद में कोई नवीन तथ्य एवं परिस्थिति उत्पन्न नहीं हुई है। ऐसे में बिना किसी उचित कारण के वादिनी साक्षी संख्या-1 व 2 को पुनः साक्ष्य हेतु तलब किये जाने का कोई औचित्य नहीं है। वाद बहस के स्तर पर लंबित है। विपक्षी द्वारा प्रार्थना पत्र में प्रस्तुत किये गये आधार धारा-311 दं०प्र०स० के अन्तर्गत साक्षियों को तलब किये जाने हेतु पर्याप्त नहीं है। अतः न्यायालय का मत है कि विपक्षी का प्रार्थना पत्र अं० धारा-311 दं०प्र०स० निरस्त होने योग्य है।

आदेश

विपक्षी का प्रार्थना पत्र-84ख अं० धारा-311 दं०प्र०स० निरस्त किया जाता है। पत्रावली वास्ते बहस दिनांक 18.09.2024 को पेश हो। उभय पक्ष नियत दिनांक को अपनी बहस प्रस्तुत करना सुनिश्चित करें।"

8. In the aforesaid background of the case, present application has been filed.

9. Learned counsel for the applicant impeaching the order dated 10.09.2024 passed by the trial court says that as per settled principle of law the application ought to have been allowed by the trial Court and the order impugned is against the principle settled in this regard as also the observations made by the Hon'ble Apex Court in regard to expression '*Fair Trial*'. As such, interference of this Court is required in the matter.

10. Learned AGA opposed the present application. He stated that the application under Section 311 Cr.P.C. was moved with sole intention to delay the trial, which is impermissible and in the circumstances of the case, the

application has rightly been rejected by the trial court. Prayer is to affirm the impugned order and dismiss the application.

11. The contents of the application dated 06.03.2024 preferred by the applicant under Section 311 Cr.P.C. being relevant are extracted hereunder:-

"श्रीमान जी,

उपरोक्त शीर्षक वाद में दि०-17.11.2023 को पी०डब्लू० 1 की साक्ष्य अंकित की जा चुकी है परन्तु साक्षी जूली पी०डब्लू० 1 से उसके द्वारा कथित विवाह के संबंध में कुछ विशिष्ट तथ्य एवं विवाह कि साक्षियों के बारे में तथा उसकी मुख्यप्रेक्षा शपथ पत्र की धारा 6 व 9 में वर्णित कथनों के संबंध में तथा पी०डब्लू० 2 मनोज कुमार के द्वारा मुख्यप्रेक्षा शपथ पत्र की धारा 4 में वर्णित अभिकथनों के संबंध में भ्रम व भूलवश प्रार्थी के अधिवक्ता द्वारा जिरह नहीं की जा सकी है। मामले के न्यायसंगत विनिश्चय के लिए उपरोक्त दोनों साक्षीगणों को पुनः जिरह के लिए न्यायालय में बुलाया जाना अति आवश्यक है। इसमें वादिनी के साथ कोई अन्याय नहीं होगा। यदि उपरोक्त मामले में उपरोक्त वर्णित साक्षियों को पुनः जिरह के लिए बुला या रिकाल नहीं किया जाता है तो न्याय निर्णय प्रभावित हो सकता है। ऐसी स्थिति में साक्षीगण को जिरह के लिए बुलाया जाना आवश्यक है। पुनः साक्ष्य आने के उपरांत माननीय न्यायालय को न्याय निर्णय करने में सहायता होगी।

अतः श्रीमान जी के समक्ष प्रार्थना पत्र प्रस्तुत कर निवेदन है कि उपरोक्त वाद में साक्षी पी०डब्लू० 1 जूली तथा साक्षी पी०डब्लू० 2 मनोज कुमार को उन पर पुनः जिरह हेतु रिकाल करने की कृपा करें।"

12. Considered the submissions advanced by the learned counsel for the parties and perused the record as also the observations made by the trial Court in the order dated 10.09.2024.

13. The principles related to recall of witness under Section 311 Cr.P.C. settled by the Hon'ble Apex Court in the case(s) of *Mohd. Khalid Versus State of West Bengal*, (2002) 7 SCC 334; *Hanuman Prasad (Supra)*, *Natasha Singh vs. CBI*, (2013) 5 SCC 741; (2013) 4 SCC (Cri) 828; 2013 SCC OnLine SC 444; *Rajaram Prasad Yadav vs. State of Bihar and another*, AIR 2013 SC 3081; *State of Haryana vs. Ram Mehar and others*, (2016) 8 SCC 762; *Swapan Kumar Chatterjee vs. Central Bureau of Investigation*, (2019) 14 SCC 328; *Varsha Garg vs. State of Madhya Pradesh and Others*, 2022 SCC OnLine SC 986 and also by this Court in *Application under Section 482 Cr.P.C. No. 274 of 2022 (Ram Nayak Singh vs. State of U.P. & Another)*.

14. It is well settled by catena of decisions by the Hon'ble Apex Court that the power under Section 311 Cr.P.C. must be exercised with the care, caution and circumspection and only for strong and valid reasons. The recall of a witness already examined should not be a matter of course and discretion given to the

court in this regard has to be exercised judicially to prevent failure of justice. The object of the provision as a whole is to do justice not only from the point of view of the accused and the prosecution but also from the point of view of an orderly society.

15. The Court is fully conscious of the position that after all the trial is basically for the prisoners/accused and the Court should afford an opportunity to them in the fairest manner possible. At the same time, the Court should bear in mind that fair trial entails the interest of the accused, the victim and the society and, therefore, the grant of fair and proper opportunities to the persons concerned, must be ensured being a constitutional goal, as well as a human right. Recalling of witnesses has to be applied on the basis of judicially established and accepted principles.

16. In the facts of the case it would be apt to refer the observations made in the judgment(s) passed in the case of ***Mohd. Khalid (Supra)*** and ***Ram Mehar (Supra)***.

17. In the case of ***Mohd. Khalid (Supra)***, the Hon'ble Apex Court observed as under:-

"Before parting with the case, we may point out that the Designated Court deferred the cross-examination of the witnesses for a long time. That is a feature which is being noticed in many cases. Unnecessary adjournments give a scope for a grievance that the accused persons get a time to get over the witnesses. Whatever be the truth in this allegation, the fact remains that such adjournments lack the spirit of Section 309 of the Code. When a witness is available and his examination-in-chief is over, unless compelling reasons are there, the Trial Court should not adjourn the matter on the mere asking. These aspects were highlighted by this Court in State of U.P. v. Shambhu Nath Singh and others (2001) 4 SCC 667 and N.G. Dastane v. Shrikant Shivde (2001) 6 SCC 135. In the case of State of U.P. v. Shambhu Nath Singh and others (2001) 4 SCC 667, this Court deprecated the practice of Courts adjourning cases without examination of witnesses when they are in attendance with the following observations:-

"9. We make it abundantly clear that if a witness is present in Court he must be examined on that day. The Court must know that most of the witnesses could attend the Court only at heavy cost to them, after keeping aside their own avocation. Certainly they incur suffering and loss of income. The meagre amount of bhatta (allowance) which a witness may be paid by the Court is generally a poor solace for the financial loss incurred by him. It is a said plight in the Trial Courts that witnesses who are called through summons or other processes stand at a doorstep from morning till evening only to be told at the end

of the day that the case is adjourned to another day. This primitive practice must be reformed by every one provided the presiding officer concerned has a commitment towards duty. No sadistic pleasure, in seeing how other persons summoned by him as witnesses are standard on account of the dimension of his judicial powers, can be a persuading factor for granting such adjournments lavishly, that too in a casual manner."

18. In the case of **Ram Mehar (Supra)** the Hon'ble Apex Court observed as under:-

"23. In Bablu Kumar and others v. State of Bihar and another, (2015) 8 SCC 787 the Court referred to the authorities in Sidhartha Vashisht alias Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC, Rattiram and others v. State of Madhya Pradesh (2012) 4 SCC 516, J. Jayalalithaa and others v. State of Karnataka and others (2014) 2 SCC 401, State of Karnataka v. K. Yarappa Reddy (1999) 8 SCC 715 and other decisions and came to hold that keeping in view the concept of fair trial, the obligation of the prosecution, the interest of the community and the duty of the court, it can irrefragably be stated that the court cannot be a silent spectator or a mute observer when it presides over a trial. It is the duty of the court to see that neither the prosecution nor the accused play truancy with the criminal trial or corrode the sanctity of the proceeding. They cannot expropriate or hijack the community interest by conducting themselves in such a manner as a consequence of which the trial becomes a farcical one. It has been further stated that the law does not countenance a "mock trial". It is a serious concern of society. Every member of the collective has an inherent interest in such a trial. No one can be allowed to create a dent in the same. The court is duty-bound to see that neither the prosecution nor the defence takes unnecessary adjournments and take the trial under their control. We may note with profit though the context was different, yet the message is writ large. The message is - all kinds of individual notions of fair trial have no room".

"38. At this juncture, we think it apt to state that the exercise of power under Section 311 Cr.P.C. can be sought to be invoked either by the prosecution or by the accused persons or by the Court itself. The High Court has been moved by the ground that the accused persons are in the custody and the concept of speedy trial is not nullified and no prejudice is caused, and, therefore, the principle of magnanimity should apply. Suffice it to say, a criminal trial does not singularly centres around the accused. In it there is involvement of the prosecution, the victim and the victim represents the collective. The cry of the collective may not be uttered in decibels which is physically audible in the court premises, but the Court has to remain sensitive to such silent cries and the agonies, for the society seeks justice. Therefore, a balance has to be struck. We have already explained the use of the words "magnanimous approach" and how it should be understood. Regard being had to the concept of balance, and weighing the factual score on the scale of balance, we are of the convinced opinion that the High Court has fallen into absolute error in axing the order passed by the learned trial Judge. If we allow ourselves to say, when the concept of fair trial is limitlessly stretched, having no

boundaries, the orders like the present one may fall in the arena of sanctuary of errors. Hence, we reiterate the necessity of doctrine of balance".

19. Having considered the aforesaid, this Court finds that application was moved with sole intention to delay the trial and the process adopted by the defence is nothing but an abuse of process of law. It is for the following reason(s):-

(i) The proceedings under Section 125 Cr.P.C. should be decided most expeditiously as observed by the Hon'ble Apex Court in the case of **Anju Garg and another vs. Deepak Kumar Garg** reported in **2022 SCC OnLine SC 1314**, which are extracted hereunder:-

"9. At the outset, it may be noted that Section 125 of Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children, as observed by this Court in Bhuwan Mohan Singh v. Meena (2015) 6 SCC 353. This Court in the said case, after referring to the earlier decisions, has reiterated the principle of law as to how the proceedings under Section 125 Cr.P.C have to be dealt with by the Court. It held as under:

"In Dukhtar Jahan v. Mohd. Farooq [(1987) 1 SCC 624 : 1987 SCC (Cri) 237] the Court opined that : (SCC p. 631, para 16)

16. "... Proceedings under Section 125 [of the Code], it must be remembered, are of a summary nature and are intended to enable destitute wives and children, the latter whether they are legitimate or illegitimate, to get maintenance in a speedy manner."

8. A three-Judge Bench in Vimala (K.) v. Veeraswamy (K.) [(1991) 2 SCC 375 : 1991 SCC (Cri) 442], while discussing about the basic purpose under Section 125 of the Code, opined that : (SCC p. 378, para 3)

3. "Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife."

9. A two-Judge Bench in Kirtikant D. Vadodaria v. State of Gujarat [(1996) 4 SCC 479 : 1996 SCC (Cri) 762], while adverting to the dominant purpose behind Section 125 of the Code, ruled that : (SCC p. 489, para 15)

15. "... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation."

10. In Chaturbhuj v. Sita Bai [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356], reiterating the legal position the Court held : (SCC p. 320, para 6)

6. "... Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Capt. Ramesh Chander Kaushal v. Veena Kaushal [(1978) 4 SCC 70 : 1978 SCC (Cri) 508] falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to

maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat [(2005) 3 SCC 636 : 2005 SCC (Cri) 787]."

11. Recently in Nagendrappa Natikar v. Neelamma [(2014) 14 SCC 452 : (2015) 1 SCC (Cri) 407 : (2015) 1 SCC (Civ) 346], it has been stated that it is a piece of social legislation which provides for a summary and speedy relief by way of maintenance to a wife who is unable to maintain herself and her children".

10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In Chaturbhuj v. Sita Bai (2008) 2 SCC 316, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India."

(ii) The object of the provisions contained under Chapter IX Cr.P.C., which contains Section 125 Cr.P.C. is to provide a speedy and effective remedy against the persons, who neglect or refuse to maintain their dependent wives, children and parents and further the second proviso to Section 125 Cr.P.C.

(iii) In the instant case the proceeding is pending consideration since 2017 and almost seven years have elapsed.

(iv) Some questions could not be asked during cross-examination, could not be the ground to recall P.W.1 and P.W.2 for further cross examination. It is in view of the observations made by the Hon'ble Apex Court in the case of ***State (NCT of Delhi) Versus Shiv Kumar Yadav and another; ((2016) 2 SCC 402.***

(v) The application U/s 311 Cr.P.C. is completely vague and was preferred only to delay the proceedings;

20. For the aforesaid, this Court does not find any illegality in the impugned order dated 10.09.2024. The instant application is hereby **dismissed**. Costs made easy.

Order Date :- 24.09.2024

Jyoti/-