

THE HIGH COURT OF TRIPURA
AGARTALA

CRL.REV.P. 95 OF 2014

Sri Rajesh Das alias Bhula,
S/O. Sri Laxman Chandra Das,
Resident of West Bank of Amarsagar,
P.S.- R.K. Pur,
District-Gomati Tripura.

..... **Accused petitioner.**

- V e r s u s -

The State of Tripura.

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner : Mr. B. Deb, Advocate.

For the respondent : Mr. A. Ghosh, P.P.

Date of hearing and : 12.01.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This revision petition by the accused is directed against the order dated 09-12-2014 passed by the learned Sessions Judge, Gomati District, Udaipur, Tripura in case No. S.T. 04(ST/U) of 2014 whereby he rejected the application filed by the accused under section 311 of Cr.P.C. for recalling prosecution witnesses No. 1, 4, 5 and 10.

2. Briefly stated, the facts of the case are that the petitioner-accused is facing a trial in case No. S.T. 04(ST/U) of 2014 registered against the petitioner under section 376 read with section 417 of the Indian Penal Code (IPC). The petitioner was earlier represented by some other defence counsel and after the evidence of the prosecution had been recorded, at the stage of arguments a fresh defence counsel was engaged. Thereafter, an application under section 311 of the Cr.P.C. was filed in which it was pointed out that the earlier defence counsel had not asked the P.W.s No.1, 4 and 5 whether their statements under section 161 Cr.P.C. had been recorded by the Investigating Officer (I.O.) and P.W.10, the I.O., was also not asked a question as to whether he had recorded the statements of P.W.s 1, 4 and 5.

3. On going through the statements of the witnesses, especially the victim, I find that as far as the victim is concerned there are certain statement made by her in her examination in Court which according to the petitioner is not reflected in the 161 statement and some of the statements may amount to serious embellishment, exaggeration and improvement and such omission in the statement under section 161 of Cr.P.C. may need to be explained.

4. Therefore, the present revision petition is allowed and the application of the petitioner filed under section 311 of Cr.P.C. is also allowed and the petitioner is permitted to recall the witnesses P.W.s No. 1, 4, 5 and 10. However, it is made clear that any cross-

examination of the witnesses No.1, 4 and 5 shall be limited only to pointing out any contradictions/omissions in their statement recorded in Court vis-à-vis their statement recorded under section 161 of Cr.P.C. As far as PW-10 is concerned, the additional cross-examination will be limited to proving the statements recorded by him under section 161 of Cr.P.C. as well as confronting him with the hand-sketch map.

5. The revision petition is disposed of in the aforesaid terms.

6. Send back the lower court records forthwith.

CHIEF JUSTICE