

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 561 of 2016**

Shrawan Singh S/o Late Tej Dhari Singh Aged About 46 Years R/o
Village - Mohanpur, Kadampara, Police Station - Darima, District
Surguja Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Darima District Surguja
Chhattisgarh

----Non-Applicant

For Applicant:	Shri VK. Pandey, Advocate.
For Non-Applicant/State:	Shri Vaibhav Anant Goverdhan, Panel Lawyer.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

24.6.2016

1. Challenge in the present Revision is to the order dated 5.4.2016 passed by the Special Sessions Judge, Ambikapur, District Surguja in Special Sessions Trial No.30/2014. Vide the said order, the Court below has rejected the application under Section 311 Cr.P.C preferred by the present Applicant.

2. Learned Counsel for the Applicant submits that the rejection of the said application by the Court below vide the impugned order is bad in law for the reason, that the Court below has not appreciated the reasons assigned in its correct perspective as to why the application was moved. According to the Applicant, there were certain material facts which had to be extracted from the two witness cited in the examination who had been examined earlier and therefore, their further cross-examination was necessary for which, application under Section 311 Cr.P.C was moved. He further submits that the Court has

committed an error in not appreciating the fact that the prosecution has not called upon the evidence of the Chemical Examiner which would have been necessary for the present Applicant to show that the case against him is not made out and the said witness has been deliberately dropped by the prosecution and for this reason also, he had moved the said application under Section 311 Cr.P.C

3. However, on perusal of the record, it would show that the two witnesses who have been sought to be recalled have been elaborately cross-examined by Learned Counsel for the Applicant at the time of recording of evidence and as far as Chemical Examiner Shri SK Singh is concerned, he was never cited as a witness by the prosecution and therefore, the question of dropping or giving up witness evidence does not arise. In the opinion of this Court, the Court below has not committed any error of law in rejecting the same. If at all the Applicant feels that SK Singh was an effective witness to disprove the contentions of the prosecution, there is no bar for the defence to produce him as a defence witness.

4. In view of above, the instant Revision, being devoid of merits, the same is accordingly rejected.

Sd/-

(P. Sam Koshy)

JUDGE