

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 163 OF 2016
(THROUGH JAIL)**

Bablu Shaukat Kalal	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. S. S. Salunkhe, appointed Advocate for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 29TH MARCH, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.

2. By this application, the applicant seeks recall of the prosecution witness No. 4 (victim) under Section 311 of the Cr. P. C in Sessions Case No. 21 of 2015.

3. Mr. Salunkhe, appointed as *amicus curiae*, submitted that certain material questions were remained to be asked, and that due to inadvertence, the said questions could not be asked and hence an

opportunity ought to be given to the applicant to cross-examine P.W. 4, by recalling her as a witness under Section 311 of the Cr. P. C.

4. Learned A.P.P opposed the application. She submitted that all the witnesses have been examined in the said case. She submitted that even P.W. 4 was extensively cross-examined by the Counsel for the applicant. According to her, the present application is filed only to fill in the lacunas.

5. Perused the papers and the impugned order dated 13th January, 2016 passed by the Additional Sessions Judge, Ichalkaranji. From the application filed by the applicant under Section 311 Cr. P. C., it appears that there is no specific ground mentioned on which the applicant intends to examine the witness. It appears that P.W. 4-the victim girl was extensively cross-examined and that no specific grounds have been set-out in the application, on which point, learned Counsel for the applicant intends to examine the victim. An application under Section 311 cannot be used to fill up the lacunas. There is no reason to interfere in the impugned order.

6. Accordingly, the application is rejected.

7. The Court expresses a word of appreciation for the assistance rendered by the learned *amicus curiae*.

8. A copy of this order be forwarded to the applicant, who is lodged in Kolhapur Central Jail.

REVATI MOHITE DERE, J.