

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1233 of 2017**

- Shamim S/o Mohd. Jaan, Aged About 40 Years R/o Rewatipur, Police Station Ramchandrapur, District Balrampur Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through The Station House Office, Police Station Ramchandrapur, District Balrampur Chhattisgarh

---- Respondent

For Petitioner : Smt. Hamida Siddique, Advocate.

For Respondent/State : Shri Vivek Singhal, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****12/09/2017**

Heard.

1. Petition under Section 482 of Cr.P.C. has been brought with a prayer to quash the impugned order dated 22.8.2017 passed in S.T. No.217 of 2013 pending before the Court of Additional Sessions Judge, Ramanujgang.
2. It is submitted that petitioner is facing trial before the above mentioned Court for the offence under Section 376 of IPC. The prosecutrix in the case was not cross-examined. The petitioner moved an application under Section 311 of Cr.P.C. submitting in it that the prosecutrix has not been cross-examined on all the points that are in favour of the defence of petitioner/accused. It is specifically submitted that the date of incident and the report of incident are different and even report of the Medical

Officer states differently about the age of injuries found on the body of the prosecutrix. The spot map prepared in the investigation has also not been confronted and no questions in this respect were put to her. The trial Court rejected the aforesaid application on the ground that the application has been filed at the belated stage and that the re-cross examination or cross-examination of the prosecutrix is not necessary. Hence, this petition.

3. Supporting the impugned order it has been submitted by learned counsel for the State that petitioner/accused has availed the opportunity of cross-examination and thereafter most of the witnesses in the case have been examined, hence, the application under Section 311 of Cr.P.C., which has been filed at the belated stage, has rightly been rejected by the trial Court.
4. Heard both the parties and perused the documents on record.
5. After perusing the cross-examination of the prosecutrix PW-7, it appears that the date of incident and date of recording of FIR had been relevant ground of defence. Similarly the age of injuries mentioned in the MLC report is also a ground on which the defence is placing reliance. The prosecutrix has also not been confronted with the spot map and no questions were put to her in this respect. For the purpose of affording complete opportunity to the petitioner and for complete adjudication of the case, it would be appropriate to allow this petition and the prayer of the petitioner for re-examination of the prosecutrix to the extent as prayed for in this petition.
6. In view of above discussions, this petition is allowed at the motion stage

itself. The impugned order passed by the trial Court is hereby set aside. It is directed that the trial Court shall afford an opportunity to the petitioner to cross-examine the prosecutrix to the extent as prayed in the petition, that is to say, the trial Court shall permit the petitioner to confront the prosecutrix with the FIR lodged by her in respect of the dates mentioned by therein. Likewise, the petitioner shall also be permitted to confront the prosecutrix with the MLC report and to ask questions from her about the age of injuries found on her body. Similarly, the petitioner shall also be allowed to ask questions from the prosecutrix by confronting her with the spot map of the incident. It is made clear that the petitioner shall not be entitled to cross-examine the prosecutrix on any other point except the ones indicated above. The petitioner shall bear the expenses of travelling and diet money etc. for recalling of witness as per provision of law, before the trial Court.

7. The petition is accordingly disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE