

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 226 OF 2017

1. Kameshwar @ Thepa, S/o Nandu Bargah, aged about 22 years.
2. Nandu Bargah, S/o Sumer Bargah, aged about 45 years.
Both R/o Village – Askala, Police Station Batauli, District Surguja (C.G.)

... Petitioners

Versus

State of Chhattisgarh, through Police Station Batauli, District Surguja (C.G.)

... Respondent

For Petitioners	:	Mr. A.K. Yadav, Advocate.
For Respondent-State	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/02/2017

1. The present petition under Section 482 of CrPC has been preferred by the Petitioners assailing the order dated 13.12.2016 passed by the Special Judge (Atrocities), Ambikapur (Surguja), in Special Sessions Case No. 36 of 2012, whereby the Court below has allowed the application under Section 311 of CrPC moved by the prosecution.
2. The Petitioners in the instant case are the accused persons being prosecuted for the offence under Sections 294, 506, 323, 254 of IPC as well as under Section 3(1)(x) and 3(1)(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act). The matter is under trial and is at the stage of evidence. During the course of trial, the prosecution has filed an application under Section 311 of CrPC for summoning Dr. Y.S. Gaharwar as witness to examine the CT Scan of brain of the victim. Though the said application was objected to by the accused persons, but the same vide impugned order has been allowed on 13.12.2016.
3. On a specific query being put to the Counsel for the Petitioners as to what prejudice has been caused by the allowing of the said application, the

only reply which the Counsel for the Petitioners gave is that the report is not of Dr. Y.S. Gaharwar.

4. If that be so, even then the allowing of the said application is not going to be prejudicial to the interest of the accused persons, for the reason that the said Doctor if examined would only give a statement that the report is not of his and the document would therefore not be able to be accepted if it is not of his report.

5. In view of the aforesaid, since the Petitioners have not been able to show as to what prejudice has been caused while allowing the application under Section 311 of CrPC, this Court does not find any strong case made out for interference with the order dated 13.12.2016 passed by the Court below.

6. Accordingly, the present Criminal Misc. Petition being devoid of merits is dismissed.

Sd/-
(P. Sam Koshy)
Judge