

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 258 of 2017**

- Dr. M. A. Naseem S/o Late M. A. Salim, Aged About 55 Years (Wrongly Mentioned As Dr. S.A. Naseem S/o Dr. M.S. Ali, Age 51 Year In The Impugned Order) R/o A - 28, Amaltaspuram Colony, Gokulpur Ward, Dhamtari, Police Station, Tahsil, Civil & Revenue District Dhamtari, Chhattisgarh.

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through Police Station Anti Corruption Bureau, Raipur, District Raipur, Chhattisgarh.

**---- Respondent**

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| For Petitioner | : | Shri Adil Minhaj, Advocate.       |
| For Respondent | : | Shri V.A. Goverdhan, Panel Lawyer |

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**Hon'ble The Acting Chief Justice**

**Order On Board**

**06/03/2017**

1. Heard on admission.
2. Challenge in this criminal revision is to the order dated 3.2.2017 passed by the Special Judge (Prevention of Corruption Act) & 1<sup>st</sup> Additional Sessions Judge, Raipur in Special Criminal No.1362/14 rejecting the application as filed by the applicant herein under Section 231 Cr.P.C. for further cross-examination of one of the prosecution witnesses.
3. From the facts it appears that after recording of evidence of the complainant Kamalkant Shrivastava (PW-4), the applicant moved an application under Section 311 Cr.P.C. for summoning the complainant for re-examination which was dismissed by the trial Court vide order dated 17.6.2015 (Annexure A-3). During the pendency of trial, another

application under Section 231 Cr.P.C. has been filed on behalf of the applicant seeking similar relief as has been claimed in the application filed under Section 311 Cr.P.C. i.e. recalling of the complainant for re-examination. The trial Court vide order impugned rejected this application holding it to be not maintainable at the instance of applicant herein.

4. Counsel for the applicant submits that the said application is well maintainable under the law and the Court below committed an error of law in rejecting the same.
5. Counsel appearing on behalf of the State has opposed the revision and submitted that even assuming that the application was maintainable, the applicant cannot be permitted to re-examine the complainant after his lengthy cross-examination. He further submits that earlier also the applicant has filed an application under Section 311 Cr.P.C. seeking similar relief and the same has been rejected by the Court below.
6. Heard counsel for the parties and perused the impugned order and documents annexed with the revision.
7. Perusal of the application filed under Section 231 Cr.P.C. reveals that the ground urged for recalling the complainant for further cross-examination is that previous defence counsel inadvertently could not put material questions, but this cannot be considered as a ground to allow such application. If such an application is allowed on the aforesaid ground then there would be no end to such tactful resort. This apart, a perusal of the statement of complainant (PW-4), re-examination of whom has been sought by the applicant herein, clearly reveals that he has been cross-examined at length and thereafter only his evidence was closed. Even otherwise, the application filed after a lapse of about more than two years

from the date of closure of evidence of the complainant cannot be entertained at this stage.

8. For the foregoing reasons, I find no illegality in the order impugned warranting interference. The revision has no substance, the same is liable to be dismissed and it is dismissed as such.

Sd/-  
(Pritinker Diwaker)  
Ag. Chief Justice

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