

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 555 of 2017**

1. Mohd. Musa, S/o Mohd. Harun, R/o. Gholapada, P.S.: Gango, Dist.: Saharanpur (U.P.)
2. Mohd. Asif, S/o Kuumdeen, R/o. Gholapada, P.S.: Gango, Distrit Saharanpur (U.P.)

---- Petitioners**Versus**

State of Chhattisgarh through The District Magistrate,
Raipur (C.G.)

---- Respondent

For Petitioners: Mr. N. Naha Roy, Advocate.
For Respondent/State: Mr. Arun Sao, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/05/2017**

(1) The petitioners' /accused application under Section 311 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been rejected by the trial Court vide impugned order dated 18.04.2017, against which, instant petition has been filed questioning the same.

(2) Learned counsel for the petitioners would submit that re-examination of the Investigating Officer- Shri G.C. Pati was absolutely necessary and, therefore, the learned trial Court has committed illegality in the rejecting the application filed by the petitioners/accused and, therefore, the impugned order is liable to be aside. He placed reliance upon the judgment of Supreme Court in the matter of ***Zahira Habibullah Sheikh (5) and another Vs. State of Gujrat and others***¹

¹ (2006) 3 SCC 374

in support of his case.

(3) Per contra, learned counsel for the State opposes the writ petition.

(4) The trial Court has clearly recorded a finding that that such application is absolutely unnecessary as the Investigating Officer was examined and he was effectively cross-examined by the petitioners' counsel and, therefore, no case is made out for allowing the application under Section 311 of the Code of Criminal Procedure filed by the petitioner. Since sufficient and valid reason has been assigned by the trial Court in rejecting the petitioner's application filed under Section 311 of the Cr.P.C., this petition is liable to be dismissed.

(5) Accordingly, the Cr.M.P. fails and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-