

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No.708 of 2017**

Nirmal Chand Jain, son of late Kalesh Chand Jain, aged about 62 years, resident of Sudharshan House G.E. Road, Rajnandgaon, Civil & Revenue District Rajnandgaon (CG).

---- Petitioner**Versus**

Chhattisgarh State Power Distribution Company Limited through Assistant Engineer (Village) V.K. CHA RA.VV. COM, Ltd. Rajnandgaon (CG).

--- Respondent

For Petitioner : Mr. Manay Nath Thakur, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

23/06/2017

(1) By the impugned order dated 07.04.2017, the Special Judge (Electricity Act), Rajnandgaon has rejected the application filed by the petitioner under Section 311 of the Code of Criminal Procedure to re-examine the prosecution's witnesses i.e. Mr. Ram Swaroop Sinha (Executive Engineer) and Mr. K.G. Mathew (Assistant Engineer) against which, this petition under Section 482 of CrPC has been filed by the petitioner/accused herein.

(2) In support of his case, learned counsel appearing for the petitioner/accused would reply upon the decision of the Supreme Court in the matter of **Rajaram Prasad Yadav Vs. State of Bihar and**

another¹ and submit that the impugned order dated 07.04.2017 passed by Special Judge (Electricity Act), Rajnandgaon is illegal and bad-in-law and therefore, it deserves to be set-aside.

(3) I have heard learned counsel for the petitioner and perused the impugned order with utmost circumspection.

(4) The trial Court has clearly held that the prosecution's witnesses i.e. Mr. K.G. Mathew (Assistant Engineer) was examined on 20.04.2016 and Mr. Ram Swaroop Sinha (Executive Engineer) was examined on 21.09.2016 and the application under Section 311 of CrPC filed on 04.03.2017 after the delay of at least more than 8 months after cross-examination of the said witnesses.

(5) After hearing learned counsel for the petitioner and taking into consideration the fact that the trial Court has clearly held that the petitioner is not entitled to grant benefit under Section 311 of CrPC. The sufficient and valid reasons have been assigned by the trial Court in rejecting the said application in which I do not find any jurisdictional error in the impugned order.

(6) Consequently, the petition deserves to be and is accordingly dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

L/-

¹ (2013) 14 SCC 461