

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 892 of 2017

Ramesh Kumar Manhar, S/o. Haridwar Manhar, Aged About 32 Years, R/o. Village- Kodabhat, P. S. & Tahsil Pamgarh, District Janjgir Champa (Chhattisgarh) Present Address Marwahi, P. S. Marwahi, District Bilaspur (Chhattisgarh).

---- Petitioner

Versus

State Of Chhattisgarh, Through : S. H. O. Pamgarh, P. S. & Tahsil, Pamgarh, District Janjgir Champa (Chhattisgarh).

-----Respondent

For Petitioner	: Mr. Ravindra Sharma, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/10/2017

Heard.

1. Challenge in this petition is to the order dated 03.05.2017, passed by the Sessions Judge, Janjgir, District – Janjgir-Champa, in Criminal Revision No.15/2017, whereby the learned revisional Court has affirmed the order passed by the learned Judicial Magistrate First Class, Pamgarh in Criminal Case No.2213/2007, rejecting the application filed by the applicant under Section 311 of Cr.P.C.
2. It is submitted by the counsel for the petitioner that petitioner is facing prosecution before the trial Court for offence under Section 498-A/34 of the Indian Penal Code. Complainant – Jayanti Bai

(P.W.-1) was examined on 19.08.2015 and Mansingh (P.W.-2) was also examined on the same date. As the senior counsel was not present during the examination of these witnesses, the junior counsel has cross-examined them. An application was moved under Section 311 of Cr.P.C., before the trial Court for recalling of these witnesses on the ground that petitioner/accused has not been defended properly, while cross-examination of these witnesses, that application was rejected by the trial Court by order dated 22.03.2017. The revision petition preferred has also been dismissed by the impugned order. Hence this petition.

3. It is submitted by the learned counsel for the petitioner that perusing the statement of Jayanti Bai (P.W.-1), the discrepancies in the question put to her is visible in the cross-examination, which needs some explanation by putting question to her on behalf of the petitioner/accused. Similarly Maan Singh (P.W.-2) is the father of the complainant, hence, his cross-examination is equally important, which has not been done sufficiently on previous day, hence prayed that petition be allowed.
4. Counsel for the State has opposed the submission made and it is submitted that from perusal of the deposition sheet, it appears that complainant – Jayanti (P.W.-1) was examined by junior counsel but P.W.-2 was examined by the senior counsel himself. Secondly, it is submitted that on perusal of the deposition sheet, it is clear that complete opportunity was given to the defence for cross-examination of the witnesses. Hence, under these circumstances, no further cross-examination can be permitted.

5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. On perusal of the statement given by Jayanti Bai (P.W.-1) in her cross-examination, looking to the question put to her by the counsel for the defence and the answer given by her, it appears that some of the statement made by her in cross-examination need to be clarified. As regards, the statement of Mansingh (P.W.-2), there is no necessity to give any opportunity for clarification. Only for the purpose of full and final adjudication of the case and for the purpose of clarifying the statement given by Jayanti Bai (P.W.-1) in her cross-examination, one opportunity can be given to the petitioner. Hence this petition is allowed at the motion stage. The impugned orders passed by the trial Court and revisional Court are hereby set-aside. Trial Court is directed to call Jayanti Bai (P.W.-1) as Court witness under the provisions of Section 311 of Cr.P.C. and put questions to her regarding the statement made by her previously for its clarification. After clarification, statement is given, if it would be necessary, only then the counsel for the petitioner be permitted by the Court to cross-examine the witness.
7. With these observation, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge