

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 750 of 2017**

- Navin Nirmalkar S/o Bistruram Nirmalkar, Aged About 23 Years R/o Vidyut Nagar, Tifra Police Station Sirgitti, Tahsil & District Bilaspur (Chhattisgarh).

---- Applicant

Versus

- State of Chhattisgarh Through S. H. O. Police Station Sirgitti, District & Revenue District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:	Shri RK Gupta, Advocate
For Respondent-State	:	Shri Ramakant Pandey, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****06/09/2017**

1. Heard.
2. This instant revision is preferred against the order dated 11.07.2017, passed by the learned Special Judge, Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989, Bilaspur in Special Case No.37/14.
3. It is contended that during the trial on the date of recording of evidence of one Baran Das Laskar on 28.09.2016 the applicant was not present before the Court and in his absence cross-examination was conducted and consequently an application was filed to recall Baran Das Laskar for further cross-examination in the presence of the accused, but the same was refused. Hence, this revision.
4. The order dated 11.07.2017 is perused. Wherein it shows that on the date

of recording of evidence the applicant Navin was initially present in the Court. Subsequently, he complained of uneasiness and became ill, as such at his request, he was permitted to go back. The statement of witness would show that the applicant was identified as accused by his photograph affixed in the arrest memo. The evidence would show that the counsel who was representing the present applicant along with other co-accused cross-examined the witness in detail. Therefore, what was the prejudice caused to the applicant has not been put forth. It was only an application under Section 311 Cr.P.C., was moved to recall the witness. The copy of such application is also not been placed before the Court to appreciate the facts. Therefore, what prejudice is caused to the applicant/accused is not shown or could be pointed out with respect to material omissions. The applicant/accused was brought before the Court. However, on his request, he was taken back from the Court and even in his absence detailed cross-examination was made by his counsel. The facts would suggest that no prejudice appears to have been caused to invoke Section 311 of the Cr.P.C. only on mere technical grounds. Accordingly, the revision has no merits and is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu