

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 40 of 2017

- Vishal @ Sani Masih S/o Shri Daniel Masih Aged About 21 Years R/o Om Nagar, Jarahabhata, Police Station Civil Line, Bilaspur Civil & Revenue District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Officer In Charge, Police Station Civil Line, Bilaspur Civil & Revenue District Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner
For Respondent/State

Mr. Devesh Kela, Advocate
Mr. Majid Ali, Panel Lawyer

Hon'ble Mr. Justice Prashant Kumar Mishra
Order On Board

12/1/2017

1. Heard.
2. This Criminal Revision has been preferred by the victim/petitioner for his re-examination under Section 311 of the Code of Criminal Procedure (in short "the Cr.P.C.").
3. On a report lodged by the petitioner, the accused persons have been put on trial for committing offences under Sections 307, 294, 34 of IPC and Section 25 of the Arms Act.
4. On 21.7.2016, the petitioner was examined before the trial Court. He was extensively cross-examined by the defence witness. Subsequently, the present application has been moved by the petitioner on the ground that on the date of his examination, he was mentally imbalanced, therefore, he could not give his

complete evidence, but now, since he has regained his mental alertness, he wants to get himself re-examined.

5. Section 311 of Cr.P.C. provides that any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.
6. Bare perusal of the above provision makes it apparent that the Court can re-examine a witness if it appears to be essential to the just decision of the case. Even if there is no express bar that a victim cannot move any application under Section 311 of Cr.P.C. for his re-examination, in the given set of facts, when the petitioner has been examined by the trial Court and has fully supported the case of the prosecution, there is no reason why it should be construed that his earlier examination may not assist the Court in the just decision of the case.
7. In the considered opinion of this Court, the trial Court has not committed any illegality or material irregularity or error of jurisdiction while refusing to allow the petitioner's application under Section 311 of Cr.P.C.
8. The revision application has no substance, it fails and is hereby dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

