

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.1180 of 2017**

Laxman Prasad Sahu, S/o Late Shri Madan Lal Sahu, aged about 41 years,
Caste Sahu, R/o Village Hasuwa, Police Station Gidhauri, Civil and Revenue
District Balodabazar – Bhatapara, Chhattisgarh

---- Applicant**versus**

State of Chhattisgarh through the Station House Officer, Police Station
Gidhauri, Civil and Revenue District Balodabazar – Bhatapara, Chhattisgarh

--- Respondent

For Applicant	:	Shri P.M. Shriwas, Advocate
For State/Respondent	:	Shri Neeraj Sharma, Deputy Government Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****13.2.2018**

1. The matter is listed for hearing on admission. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. This revision has been preferred against the order dated 27.10.2017 passed by the 2nd Additional Sessions Judge, Balodabazar in Sessions Trial No.67 of 2016, whereby the Learned Additional Sessions Judge has dismissed the application filed by the Applicant/accused under Section 311 of the Code of Criminal Procedure for recalling prosecution witnesses, namely, Sandeep Sahu, Sadanand Sahu and Investigating Officer S.K. Jangde.
3. Facts of the case, in brief, are that a charge-sheet for offence punishable under Section 302 of the Indian Penal Code has been filed against the present Applicant before the Trial Court. During the course of trial, at the stage of examination of the accused/Applicant, he filed an application under Section 311 of the Code of Criminal Procedure for recalling prosecution witnesses Sandeep Sahu, Sadanand Sahu and Investigating Officer S.K.

Jangde on the ground that examination of prosecution witness Sadanand Sahu was done after examination of Investigating Officer S.K. Jangde. The Applicant wanted to call the Investigating Officer for further cross-examination regarding the statement of Sadanand Sahu on the ground that Sadanand Sahu and Sandeep Sahu have not been cross-examined properly on material points, therefore, their further cross-examination is required. The said application was rejected by the Trial Court vide the impugned order. Hence, this revision.

4. Learned Counsel appearing for the Applicant/accused submits that since eyewitness Sadanand Sahu has been a habitual offender and so many cases are pending against him in various Courts for offences under the Excise Act, due to enmity witness Sadanand Sahu falsely implicated the Applicant. During the course of trial, the Applicant had tried to obtain a copy of the criminal record of witness Sadanand Sahu, but this information was not supplied to him by the concerned Information Officer stating that the criminal record of the witness cannot be supplied because he is an eyewitness and the supply of the desired information would affect the case of the prosecution. In the circumstances, further cross-examination of witness Sadanand Sahu is required. It is further argued that prior to recording of statement of Sadanand Sahu, statement of Investigating Officer S.K. Jangde had been recorded, therefore, further cross-examination of the Investigating Officer is essential to establish the contradictions and omissions occurred in the statement of Sadanand Sahu. It is further argued that material questions could not be put to witness Sandeep Sahu, therefore, his further cross-examination is also required. The Trial Court has not

appreciated these facts and has wrongly rejected the application of the Applicant/accused. Therefore, the impugned order be set aside and the application of the Applicant for recalling the afore-named three witnesses be allowed.

5. Per contra, Learned Counsel appearing for the State supported the impugned order and submitted that the same is a reasoned order and does not call for any interference by this Court.
6. I have heard Learned Counsel appearing for the parties and perused the record with due care.
7. A bare perusal of the record makes it clear that Investigating Officer S.K. Jangde has been examined on 25.4.2017 and witness Sadanand Sahu has been examined on 23.6.2017. Thus, it is clear that the Investigating Officer has been examined earlier to Sadanand Sahu. In these circumstances, to put-forth the contradictions and omissions occurred in the statement of Sadanand Sahu, further cross-examination of Investigating Officer S.K. Jangde is essential. However, opportunity to cross-examine Sadanand Sahu and Sandeep Sahu in detail has been given to the Applicant/accused. Thus, the application under Section 311 of the Code of Criminal Procedure, so far as it relates to recalling of witnesses Sadanand Sahu and Sandeep Sahu, has rightly been rejected by the Trial Court and the same does not warrant any interference by this Court.
8. In the result, the revision is allowed in part. The impugned order, so far as it relates to rejection of the application for recalling witnesses Sadanand Sahu and Sandeep Sahu for their further cross-examination, is affirmed. The impugned order, so far as it

relates to rejection of prayer for recalling of witness Investigating Officer S.K. Jangde for further cross-examination, is set aside. The Trial Court is directed to afford an opportunity to the Applicant/accused to recall witness S.K. Jangde for further cross-examination. It is made clear that further cross-examination of witness S.K. Jangde shall be confined only to the contradictions and omissions occurred in the statement of witness Sadanand Sahu.

9. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge