

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.444 of 2018

Santu @ Nasruddin, S/o Sheikh Samsuddin, aged about 25 years, R/o Ganesh Nagar, Chuchahiyapara, Police Station Sirgitti, Bilaspur, District Bilaspur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Police Station Sirgitti, Bilaspur, District Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri V.C. Ottalwar, Advocate
For State/Respondent	:	Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

20.7.2018

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The instant revision has been preferred by the accused against the order dated 28.3.2018 passed by the Additional Sessions Judge (F.T.C.), Bilaspur in Case No.416 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.
3. As per the prosecution story, the Applicant, who is a married person and has 2 children, was neighbour of the prosecutrix. Allegedly, on 30.5.2016, he threatened the prosecutrix and took her with him to Anuppur and kept her there at the house of one of his relatives and there he committed forcible sexual intercourse with

her. The matter was reported. A charge-sheet for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 4 of the Prevention of Children from Sexual Offences Act was filed. Before filing of the charge-sheet, statements of the prosecutrix under Sections 161 and 164 of the Code of Criminal Procedure were also recorded. During the course of trial, the prosecutrix was examined on 14.11.2017. Thereafter, an application under Section 311 of the Code of Criminal Procedure was filed on behalf of the Applicant/accused on the ground that during cross-examination of the prosecutrix, she was not duly cross-examined by the defence on the material contradictions and omissions occurred in her statement recorded under Section 164 of the Code of Criminal Procedure. Vide the impugned order dated 28.3.2018, the Trial Court has rejected the said application on the ground that the Counsel for the defence has already been afforded sufficient opportunity to cross-examine the prosecutrix.

4. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
5. It is true that earlier the Counsel for the defence had duly cross-examined the prosecutrix, but from the statement of the prosecutrix it is clear that the contradictions and omissions occurred in her statement recorded under Section 164 of the Code of Criminal Procedure have not come on the record. Since the offence is of heinous nature, it would be in the interest of justice to afford an opportunity to the defence to further cross-examine the prosecutrix on the only limited point of contradictions and omissions occurred

in her statement recorded under Section 164 of the Code of Criminal Procedure. Ordered accordingly. It is also made clear that the expenses of the prosecutrix for her appearance before the Trial Court for her further cross-examination by the defence shall be borne by the Applicant/accused.

- 6.** In the result, the revision is allowed in the aforesaid terms.

Sd/-
(Arvind Singh Chandel)
Judge