

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.747 of 2018

Sharad Sahu, son of Dhiraj Kumar Sahu, aged about 25 years, resident of Shakti Nagar, Chaprasi Plot, Durg, District Durg, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through the Station House Officer, Police Station Mohan Nagar, Durg, District Durg, Chhattisgarh

--- Respondent

For Applicant	:	Shri B.P. Singh, Advocate
For Respondent	:	Shri Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

26.7.2018

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The instant revision has been preferred against the order dated 23.5.2018 passed by the 4th Additional Sessions Judge, Durg in Sessions Trial No.5 of 2018, whereby the application for recalling Prosecution Witness No.2, Chovaram and Prosecution Witness No.5, Smt. Janki Sahu has been rejected.
3. Facts of the case, in brief, are that the deceased was married with the Applicant on 15.4.2016 and within 7 years of her marriage, she committed suicide by pouring kerosene on her and setting her on fire on 3.10.2017 as she was subjected to cruelty by the Applicant for demand of dowry. On account of this, Sessions Trial No.5 of 2018 is pending before the 4th Additional Sessions Judge, Durg for the offence punishable under Section 304B of the Indian Penal

Code. On 23.5.2018, an application under Section 311 of the Code of Criminal Procedure was filed by the Applicant stating that PW2, Chovaram has not been duly cross-examined and rebutted on the facts admitted in paragraph 2 of his examination-in-chief. PW5, Smt. Janki Sahu has also not been put some important questions. The Trial Court has rejected the application vide the impugned order dated 23.5.2018 on the ground that sufficient opportunity has been afforded to cross-examine to PW2, Chovaram and PW5, Smt. Janki Sahu.

4. Learned Counsel appearing for the Applicant submits that he does not want to press the instant revision for calling to PW5, Smt. Janki Sahu for her cross-examination and he wants to press the revision to call PW2, Chovaram only for his further cross-examination. He further submits that the matter pertains to Section 304B of the Indian Penal Code. The offence is of heinous nature. Cross-examination was done by a junior counsel. There is no rebuttal regarding facts admitted in paragraph 2 of examination-in-chief of PW2, Chovaram nor has he been properly cross-examined. Therefore, he prays for grant of a single opportunity to further cross-examine PW2, Chovaram.
5. Learned Counsel appearing for the State/Respondent opposes the revision and submits that the impugned order does not warrant any interference by this Court as the same is self-explanatory.
6. Considering the totality of the facts and circumstances of the case, particularly, the fact that the offence is of Section 304B of the Indian Penal Code which is a heinous offence, affording of one

opportunity to the Applicant would be in the interest of justice. It is directed that the further cross-examination of PW2, Chovaram shall be limited to the facts admitted in paragraph 2 of his examination-in-chief. The Trial Court is directed to recall PW2, Chovaram and afford an opportunity to the defence as stated above. The expenses of PW2, Chovaram for his appearance shall be borne by the Applicant/accused and on the date of further cross-examination of PW2, Chovaram, he will be further cross-examined by the Advocate available on behalf of the Applicant/accused and no further opportunity will be afforded to the Applicant/accused in this regard.

7. Consequently, the revision is allowed in the aforesaid terms.

Sd/-
(Arvind Singh Chandel)
Judge