

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1145 of 2017

Manish Nirmalkar, S/o Hardev Nirmalkar, aged about 40 years, R/o Village Ravan Bhatapara Pithoura, Police Station Pithoura, District Mahasamund, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Police Station Pithora, District Mahasamund, Chhattisgarh

--- Respondent

For Applicant	:	Shri Gurudev I. Sharan, Advocate
For State/Respondent	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

16.1.2018

1. The revision is listed for hearing on admission. 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 13.10.2017 passed by the Additional Sessions Judge (FTC), Mahasamund in Sessions Trial No.29 of 2017 rejecting the application submitted by the accused/Applicant under Section 311 of the Code of Criminal Procedure.
3. As projected, the facts of the case, in nutshell, are that a report was lodged by the prosecutrix, aged about 24 years against the accused/Applicant. Offence punishable under Sections 376, 366, 342, 494, 328 and 323/34 of the Indian Penal Code was registered and thereafter a charge-sheet was filed against the Applicant. After framing of charges, statement of the prosecutrix has also been recorded by the Trial Court. Thereafter, the application under Section 311 of the Code of Criminal Procedure was submitted by the accused/Applicant on the ground that after the examination of the prosecutrix the Applicant came to know that the prosecutrix had

made her statement before the Court under pressure. The said application under Section 311 of the Code of Criminal Procedure has been dismissed by the Trial Court vide impugned order dated 13.10.2017. Hence, this revision.

4. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
5. It reveals that examination-in-chief and cross-examination of the prosecutrix was done on 13.7.2017 and 14.7.2017. Thereafter, on 5.10.2017, the application under Section 311 of the Code of Criminal Procedure was filed by the Applicant on the ground that the prosecutrix had made her statement before the Trial Court under pressure and, therefore, it was prayed in the application to recall the prosecutrix for her further examination. But, the Trial Court has rejected the said application on the ground that the Applicant had got sufficient and proper opportunity to cross-examine the prosecutrix and the prosecutrix herself had not made any statement before the Court that she had made her statement before the Court under any pressure. The impugned order is a reasoned order. Sufficient and proper opportunity was afforded to the Applicant to cross-examine the prosecutrix. I find that the application under Section 311 of the Code of Criminal Procedure filed by the Applicant was rightly rejected by the Trial Court.
6. Resultantly, the revision, being devoid of merit, is dismissed.
7. A copy of this order be sent to the Court below forthwith for information.

Sd/-
(Arvind Singh Chandel)
Judge