

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1203 of 2018

Tileshwar @ Dabbu Thakur, S/o Bramha Thakur, aged about 25 years, R/o Village Parasdiha, Police Station Basantpur, District Balrampur-Ramanujganj, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Police Station Basantpur, District Balrampur-Ramanujganj, Chhattisgarh

--- Respondent

For Applicant	:	Shri Pushpendra Kumar Patel, Advocate
For Respondent/State	:	Smt. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

30.10.2018

1. The matter is listed for hearing on admission. With the consent of Learned Counsel appearing for the parties, it is heard finally.
2. The revision has been preferred against the order dated 25.9.2018 passed by the Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, Balrampur at Ramanujganj in Sessions Trial No.9 of 2018, whereby the Learned Special Judge has dismissed the application filed on behalf of the Applicant/accused seeking adjournment of the case and has closed opportunity of cross-examination of the witnesses.
3. Learned Counsel appearing for the Applicant/accused submits that on 16.7.2018, prosecutrix Priyanka (PW1) and her mother Neelamdevi (PW2) were present before the Trial Court and their examination-in-chief were recorded. Since Shri R.K. Patel, Counsel appearing for the Applicant/accused before the Trial Court

was not present in the Court on that date, both the aforesaid witnesses could not be cross-examined by the Applicant/accused himself. Therefore, an application under Section 311 of the Code of Criminal Procedure was filed on behalf of the Applicant, which was allowed vide order dated 21.8.2018 and the case was fixed for 25.9.2018 for recording cross-examination of the said two witnesses. He further submits that on 25.9.2018 also, Shri R.K. Patel, Counsel appearing for the Applicant/accused was not present in the Trial Court for some unavoidable reason. Therefore, a junior counsel submitted an application on behalf of the Applicant/accused for adjournment of the case, but the Special Judge has rejected the prayer for adjournment and has also closed opportunity of cross-examination of the said two witnesses. He further submits that both the witnesses are the prosecutrix and her mother, they have never been cross-examined on behalf of the Applicant/accused, nature of the offence in question is serious and, therefore, one opportunity should be afforded to the Applicant/accused to cross-examine the said two witnesses.

4. Learned Counsel appearing for the State/Respondent opposes the above arguments and supports the impugned order.
5. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
6. Looking to the facts that the nature of the offence in question is serious and cross-examination of prosecutrix Priyanka (PW1) and her mother Neelamdevi (PW2) has not been done on behalf of the Applicant/accused, affording of an opportunity to the Applicant/accused for cross-examination of the aforesaid two

witnesses would be in the interest of justice.

7. Therefore, the Trial Court is directed to afford an opportunity to the Applicant/accused for cross-examination of prosecutrix Priyanka (PW1) and her mother Neelamdevi (PW2). The Applicant shall bear the expenses of appearance of the said two witnesses before the Trial Court for the purpose of their cross-examination on his behalf. It is made clear that whenever the said two witnesses are called for cross-examination by the Applicant/accused, the Counsel appearing for the Applicant/accused shall remain present in the Court for their cross-examination and if the Counsel does not appear, the Applicant shall make an alternative arrangement for cross-examination of the said two witnesses. It is also made clear that no further opportunity/time shall be granted to the Applicant for cross-examination of the said two witnesses.
8. In the result, the revision is allowed to the extent indicated above.

Sd/-
(Arvind Singh Chandel)
Judge