

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on 27.8.2019****Order delivered on 27.11.2019****CRR No. 680 of 2017**

- Ballu Yadu @ Lallu S/o Mansuk Yadu Aged About 32 Years R/o Purani Basti, Infront Of Mahamaya Mandir, Police Station Purani Basti, District Raipur Chhattisgarh., Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Azad, Chowk, Raipur, District Raipur Chhattisgarh., Chhattisgarh

----Respondent

For Applicant	: None
For Respondent/State	: Shri Akhtar Hussain, P.L.

Hon'ble Smt. Justice Rajani Dubey**CAV Order**

1. Heard.
2. This revision is directed against the order dated 9.6.2017, passed by the 9th Additional Sessions Judge(FTC), Raipur, District Raipur(CG) in Special S.T.No.257/2016, wherein the application filed by the applicant under Section 311 of the Cr.P.C. has been rejected and refused to recall the witnesses (prosecutrix and her mother).
3. The applicant has filed this revision on the ground that the impugned order is bad in law. He has filed documents related to complaint filed by PW2- Mamta Thakur of the incident dated 26.8.2016 at Police Station Azad Chowk, Raipur, wherein the concerned police has submits *Istagasa* No.992/2016 before the

Sub Divisional Magistrate, Raipur on 27.8.2016, in which the applicant has been released on 30.8.2016 on a personal bond. Again a complaint was lodged on 27.8.2016. In the report lodged by the PW2- Mamta Thakur, mother of the prosecutrix, she has not stated anything regarding the incident. But, some important questions related to those documents did not ask to PW2-Mamta Thakur and PW1- prosecutrix and these witnesses could not be cross-examined effectively, therefore, the aforesaid witnesses may be recalled for examination.

4. No one appears on behalf of the applicant. On earlier date also no one was appeared on behalf of the applicant.
5. Leaned counsel for the State supported the impugned order and submitted that the order passed by the court below is just and proper and requires no interference.
6. A careful perusal of statement of the prosecutrix- PW1 and her mother PW2-Mamta Thakur would show that on 15.12.2016, depositions of these witnesses were recorded, but no question was put to them regarding the incident connecting with *Istagasa* No. 992/2016. The applicant in his application has stated that some relevant documents of the case were obtained on 19.9.2016 and the witnesses are imported and their re-examination is necessary. The applicant has stated that there is nothing incriminating against him in the charge sheet of *Istagasa* No. 992/2016.

7. Considering the facts and circumstances of the case, in the interest of justice, on payment of cost of Rs.5000/- to the witness Mamta Thakur (PW2), it is directed that she will be examined before the trial Court on the next date of hearing. PW1-prosecutrix is of 5 ½ years of age, therefore, there is no need to re-examine her. With these directions, the case is sent back to the trial Court immediately.
8. Let summon be issued to PW2-Mamta Thakur for her examination before the trial Court on the next date of hearing. Cost will be paid to her on her appearance before the trial Court. If the cost is not paid on her appearance, right to cross-examine shall stand closed.
9. With the aforesaid observation, the revision stands disposed of.

Sd/

(Rajani Dubey)

JUDGE