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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.574 of 2019

Smt. Ranjeeta Pandey, Wd/o Late Chandrasen Pandey, aged 58 years,
Caste Brahman, R/o Kunjnagar Jharpara, P.S. Jainagar, Tahsil and District
Surajpur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh, through Station House Officer, P.S. Jainagar, District
Surajpur, Chhattisgarh

--- Respondent

For Applicant	:	Shri Nishi Kant Sinha, Advocate
For Respondent	:	Shri Amit Singh, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

29.4.2019

1. With the consent of Learned Counsel appearing for the parties, the revision is heard finally.
2. The instant revision has been preferred against the order dated 12.4.2019 passed by the 3rd Additional Sessions Judge, Surajpur in Sessions Trial No.4 of 2018, whereby the application filed by the accused/Applicant under Section 311 Cr.P.C. has been dismissed.
3. Before the Additional Sessions Judge, a trial for offence punishable under Sections 304B and 498A of the Indian Penal Code is going on against the Applicant. The Applicant is at present in jail. On 2.1.2019, examination-in-chief of Investigating Officer Nimisha Pandey (Prosecution Witness No.17) was recorded. However, her

cross-examination could not be done on behalf of the accused/Applicant as her Advocate was not available on that date. An application was moved for adjournment of the case, which was allowed with a condition that on the next date, the Applicant shall pay the expenses of Nimisha Pandey (PW17). Thereafter, on 11.4.2019, without affording any opportunity to cross-examine Nimisha Pandey, the Trial Court fixed the case for examination of the accused/Applicant. On the next date, i.e., 12.4.2019, an application under Section 311 Cr.P.C. was filed by the accused/Applicant for recalling Nimisha Pandey (PW17), but, the Trial Court dismissed the application. Hence, this revision.

4. Learned Counsel appearing for the Applicant/accused submits that Nimisha Pandey (PW17) is Investigating Officer of the case. The trial going on against the Applicant relates to a heinous crime. The Applicant is in custody. She has already deposited a sum of Rs.1,000/- on 30.3.2019 for summoning Nimisha Pandey (PW17). Despite that, the Applicant has not been afforded opportunity to cross-examine Nimisha Pandey (PW17). It is not the case that since the Applicant is in custody, she filed the application under Section 311 Cr.P.C. to cause delay in trial. Since Nimisha Pandey (PW17) is the Investigating Officer of the case, she is an essential witness for the case and, therefore, the Applicant should be afforded an opportunity to cross-examine Nimisha Pandey.
5. Learned Counsel appearing for the State/Respondent supported the impugned order.
6. I have heard Learned Counsel appearing for the parties and

perused the material available with due care.

7. Having considered the facts and circumstances of the case and the contentions put-forth on behalf of the parties, I am of the view that it would be in the interest of justice to afford an opportunity to the Applicant/accused to cross-examine the Investigating Officer of the case.
8. Therefore, it is directed that the Trial Court shall summon Nimisha Pandey (PW17) for her cross-examination on behalf of the Applicant/accused. She shall be cross-examined on the date of her appearance itself and no further adjournment in this regard shall be granted to the Applicant. The expenses for appearance of Nimisha Pandey (PW17) before the Trial Court for cross-examination on behalf of the Applicant shall be borne by the Applicant and the amount of Rs.1,000/- already deposited by her in this regard shall be adjusted in the said expenses.
9. Consequently, the instant revision is allowed to the extent indicated above.

Sd/-

(Arvind Singh Chandel)
Judge