

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 755 of 2019

- Gunesh Kumar Panigrahi S/o Late T.R. Panigrahi Aged About 45 Years R/o Asna, Jagdalpur, District- Bastar, Chhattisgarh.,

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station- Kotwali, Jagdalpur, District- Bastar, Chhattisgarh.

---- Respondent

For Applicant	: Shri Vikas A.Shrivastava, Advocate
For Respondent/State	: Shri Rahul Mishra, Dy.GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

15/07/2019

With the consent of the parties, the matter is heard finally.

2. Being aggrieved by the order dated 04.04.2019 passed by the Third Additional Sessions Judge, Bastar in Sessions Trial No. 11/2014 whereby the learned trial court has rejected the application filed by the applicant/accused under Section 311 Cr.P.C., this revision has been preferred.

3. From perusal, it reveals that the court below has rejected the application on the pretext that the accused could not adduce evidence for the reasons best known to the Court.

4. After having heard counsel for the parties and on perusal of scope of Section 311 Cr.P.C., it reveals that "The power under Section 311 Cr.P.C must therefore, be invoked by the court only in order to meet the ends of justice for strong and valid reasons and the same

must be exercised with care, caution and circumspection. The court should bear in mind that fair trial entails the interest of the accused, the victim and the society and, therefore, the grant of fair and proper opportunities to the persons concerned, must be ensured being a constitutional goal, as well as a human right.

5. The trial court in the present case, has not taken note of the fact that why recall or re-examination is required. While considering the application under Section 311 of the Cr.P.C., it is the duty of the trial court to look into the facts of the application to arrive at a satisfaction, why recall or re-examination is not considered necessary. Without taking note of the said fact, the rejection of the application is without due application of mind. The court must satisfy itself that it was in every respect essential to examine such a witness or to recall him for further examination in order to arrive at a just decision of the case.

6. In view of the foregoing discussion, the order passed by the trial court is not as per the spirit of Section 311 Cr.P.C. therefore, it stands set aside. In the ends of justice, the trial court is directed to grant one more opportunity to adduce applicant's evidence within a further period of 15 days from the date of receipt of copy of this order. The trial court can further proceed with the trial in accordance with law. Accordingly, the petition is allowed.

It is made clear that no further adjournment would be granted to the applicant.

Certified copy today.

Sd/-
(Rajani Dubey)
Judge

