

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1787 of 2019**

Ramchandra Banjare, S/o Sakharam Banjare @ Chhotu, aged about 23 years, Caste Suryawanshi, R/o Village Mehendi, P.S. Shivrainarayan, District Janjgir-Champa (C.G.)

-----Petitioner/Applicant

Versus

State of Chhattisgarh, Through The District Magistrate,
District Janjgir-Champa (C.G.)

-----Respondent

For Petitioner	:	Mr. Tarkeshwar Nande, Advocate.
For Respondent/State	:	Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

09/12/2019

(1) The petitioner is suffering trial for commission of offence punishable under Sections 452, 354, 323 and 506 part II of the IPC, in which, prosecutrix was examined on 19.12.2014 and thereafter other witnesses have also been examined. Meanwhile, on 2.2.2019, the petitioner filed an application for re-examination of the prosecutrix under Section 311 of the Cr.P.C., which was rejected by the trial Court as well as Court of Sessions, against which instant petition under Section 482 of the Cr.P.C. has been preferred.

(2) Learned counsel appearing for the petitioner would submit that re-examination of the prosecutrix is absolutely necessary for just and proper disposal of the case **whereas** learned Counsel for the State would submit that the aforesaid application for re-examination of the prosecution has been filed by the applicant with an inordinate delay of four years from the date of her examination and there is no plausible reason has been assigned in the application for re-

examination of the prosecutrix.

(3) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and gone through the record with utmost circumspection.

(4) The question for consideration in this petition is whether both the courts below were justified in rejecting the application for re-examination of the prosecutrix filed by the petitioner.

(5) In the matter of **Umar Mohammad v. State of Rajasthan**¹, their Lordship of the Supreme Court have held that delay of four years in filing the application under Section 311 of the Cr.P.C. is one of the important factor, which has to be explained in the application. Likewise, the same view has been reiterated by the Supreme Court in the matter of **Ratanlal v. Prahlad Jat and others**²

(6) Reverting the facts of the case in light of afore-cited judgments of the Supreme Court (supra), it is quite apparent that delay of 4 years in filing the application for re-examination of prosecutrix has not been explained properly by the applicant. Thus, both the courts below are absolutely justified in rejecting the application finding that no satisfactory reasons have been assigned for making application with an inordinate delay of four years, which is neither perverse nor contrary to the record. I do not find any illegality or perversity in the impugned order warranting interference under Section 482 of the Cr.P.C.

(7) Consequently, the petition, being devoid of merit, is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

1 (2007) 14 SCC 711

2 (2017) 9 SCC 340

D/-

