

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1024 of 2019**

- Jai Ram Kashyap S/o Nand Lal Kashyap Aged About 35 Years R/o Balaji Nagar, Khursipar, Near Koushal Kirana, Khursipar Durg District- Durg, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Police Station Khursipar District Durg, Chhattisgarh.

----Respondent

For Applicant	: Shri C.P. Soni, Advocate
For Respondent/State	: Shri Akhtar Hussain, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****12.9.2019**

1. Heard on admission.
2. This revision is directed against the order dated 6.7.2019, passed by the Fifth Additional Sessions Judge/Special Judge (under the POCSO Act), Durg(CG) in Special S.T. (PSCSO Act) No.62/2019, wherein the application under Section 311 of the Cr.P.C. filed by the applicant has been rejected and refused to recall the witnesses (prosecutrix and her mother).
3. The applicant is facing trial under Section 5(३) and 6 of the Protection of Children from Sexual Offences Act and Sections 363, 376, 506 of the IPC. On 26.6.2019, the case was fixed for examination of the witnesses and prosecutrix and her mother were

present before the trial Court, but on that day as the Counsel for the accused/applicant was busy in Election of Bar Council, he could not cross-examine the witnesses and the accused/applicant himself has cross-examined them.

4. Learned counsel for the applicant would submit that the prosecutrix and her mother could not be cross-examined effectively, therefore, they may be recalled for examination. He submits that an application under Section 311 Cr.P.C. was filed by the applicant before the trial Court, but the same was rejected. He further submits that both the witnesses are important witnesses (prosecutrix and her mother) and they could not be examined by the counsel as he was busy in Bar Council Election, therefore, they may be recalled in the interest of justice.
5. A careful perusal of the statement of prosecutrix (PW1) would show that on 26.6.2019 main cross examination was required to be done by the applicant's counsel. The counsel was not present before the Court and cross-examination was done by the accused/applicant himself. Therefore, in the interest of justice, on payment of cost of Rs.2000/- to the prosecutrix and Rs.2000/- to the mother of the prosecutrix, it is directed that both the witnesses will be examined before the trial Court on the date to be fixed by the trial Court.
6. Let summons be issued to both the witnesses. Cost will be paid to them before their examination. If the cost is not paid on their appearance, right to cross-examine shall stand closed.

7. With the aforesaid observation, the revision is disposed of at the motion stage.

Sd/

(Rajani Dubey)

JUDGE

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