

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1116 of 2019

- Jitendra Kalshe S/o Shri Ramnaresh Kalshe, Aged About 23 Years, R/o Below Pragati Nagar Dam Darri, Police Station Darri, District Korba, Chhattisgarh., District : Korba, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Incharge Darri, District Korba, Chhattisgarh., District : Korba, Chhattisgarh

---- Respondent

For Applicant– Shri Suresh Kumar Pandey, Advocate.

For State/respondent – Shri Roshan Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-11-2019

1. This petition has been brought challenging the correctness, legality and propriety of the order dated 13-08-2019 passed by the trial Court in S.T.No.37/2019 rejecting the application under Section 311 Cr.P.C. filed by the applicant.

2. It is submitted by learned counsel for the applicant that although the applicant had opportunity to cross-examine the witnesses, the prosecutrix (PW-1) and her parents, PW-3 and PW-4, but earlier statements of the prosecutrix were not confronted to her in cross-examination by the counsel and this confrontation may bring a difference in the case of the applicant and in his defence. It is also submitted that the questions were not put to the parents of the prosecutrix in a proper manner to challenge the age of the prosecutrix. Therefore, the application should have been allowed by the trial Court for re-cross-examination of the prosecution witnesses by the applicant.

3. Learned counsel for the State/respondent opposes the application submitting that the applicant had full opportunity to cross-examine the witnesses and he has also completed their cross-examination. Therefore, there is

no reason to allow the petition.

4. After perusing the copy of the deposition of the witnesses filed before this Court, I am of this view that the prosecutrix (PW-1) has not been confronted with her previous statements recorded under Section 161 of the Cr.P.C., then thereafter the statement that was recorded by Balak Kalyan Samiti and thereafter the statement recorded under Section 164 of the Cr.P.C. Therefore, the inadvertence of the counsel to confront these documents on behalf of the applicant cannot be overlooked if in case there is some defence present in favour of the applicant. Therefore, I feel inclined to dispose off this petition at the motion stage. Accordingly, the petition is disposed off at motion stage and the impugned order so far it relates to dismissal of the prayer for re-cross-examination of the prosecutrix (PW-1) is set aside. However, the prayer for re-cross-examination of the other witnesses is dismissed and in that respect the impugned order is maintained. The trial Court is directed to give one opportunity to the applicant to re-cross-examine the prosecutrix (PW-1) only to the extent of confronting the previously recorded statements which are already part of the charge sheet.

Sd/-
(Rajendra Chandra Singh Samant)
Judge