

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1276 of 2018

Alok Jaisawal, S/o Ramkaran, aged about 19 years, R/o Village Khaira,
Police Station Sakti, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Police Station Baradwar, District Janjgir-
Champa, Chhattisgarh

--- Respondent

For Applicant	:	Shri Deepak Kumar Singh, Advocate
For Respondent	:	Smt. Smriti Shrivastava, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

5.3.2019

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 20.8.2018 passed by the 1st Additional Sessions Judge, Sakti, District Janjgir-Champa in Sessions Trial No.8 of 2017, whereby the Additional Sessions Judge has rejected the application under Section 311 of the Code of Criminal Procedure preferred by the Applicant.
3. Sessions Trial No.8 of 2017 is going on against the Applicant for an offence punishable under Sections 307, 394, 397, 34 of the Indian Penal Code. Prosecution Witness No.3, Tileshwari has been examined before the Trial Court on 7.7.2017. Thereafter, on 7.8.2018, an application under Section 311 of the Code of Criminal Procedure was submitted by the Applicant on the ground that

Complainant/Prosecution Witness No.3, Tileshwari had executed an acknowledgment-deed on 10.1.2017. But, at the time of examination of witness Tileshwari before the Court, the said acknowledgment-deed could not be given by the Applicant to his previous Counsel and, therefore, witness Tileshwari could not be confronted with the said acknowledgment-deed. Therefore, a prayer was made that the acknowledgment-deed be taken on record and witness Tileshwari be called for further cross-examination on the aforesaid acknowledgment-deed. The prayer was rejected by the Trial Court on the ground that on the date witness Tileshwari was examined, the acknowledgment-deed was in the knowledge of the defence and also on the ground that witness Tileshwari has been cross-examined by the defence in detail.

4. Learned Counsel appearing for the Applicant submits that the acknowledgment-deed dated 10.1.2017 is an important document. It was not in the knowledge of the previous Counsel of the Applicant appearing before the Trial Court. Therefore, witness Tileshwari could not be confronted with the said acknowledgment-deed by the previous Counsel for the Applicant. He further submits that a perusal of the acknowledgment-deed itself *prima facie* shows that the said deed bears signature of witness Tileshwari herself. Since the matter relates to a heinous crime and according to the said deed Complainant/witness Tileshwari does not want any action against the Applicant, therefore, an opportunity should be afforded to the Applicant to confront witness Tileshwari with the said acknowledgment-deed.

5. Learned Counsel appearing for the Respondent/State opposes the above submission.
6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
7. Considering the facts, circumstances and nature of the case and also considering that *prima facie* signature of Prosecution Witness No.3, Tileshwari appears on the said acknowledgment-deed, the Applicant deserves an opportunity for further cross-examination of witness Tileshwari.
8. Therefore, it is directed that an opportunity shall be afforded by the Trial Court for further cross-examination of Prosecution Witness No.3, Tileshwari by the Applicant on the aforesaid acknowledgment-deed dated 10.1.2017 and this further cross-examination shall be limited to the said deed only. It is made clear that the said further cross-examination of witness Tileshwari shall be done by the Applicant on the date of her next appearance itself to be fixed by the Trial Court and no further adjournment shall be granted in this regard. All the expenses of appearance of witness Tileshwari before the Trial Court for her further cross-examination shall be borne by the Applicant.
9. Consequently, the instant revision is allowed to the extent indicated above.

Sd/-

(Arvind Singh Chandel)
Judge