

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1437 of 2019

Arjun Parihar S/o Shri Shankarlal Parihar Aged About 28 Years R/o
Indra Nagar, Ward No. 05. Dongargarh, P.S. And Tah. - Dongargarh,
District : Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate Rajnandgaon
Chhattisgarh.

---- Respondent

For Applicant	: Mr. Shashi Bhushan Tiwari, Advocate
For the Respondent/ State	: Mr. Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-11-2019

1. This revision petition has been brought being aggrieved by the order dated 13.8.2019 passed by the Court of Additional Sessions Judge (FTC), Rajnandgaon, District Rajnandgaon, Chhattisgarh in Sessions Trial No. 69 of 2018 by which the opportunity of the petitioner for cross-examining the witness was closed and also the order dated 7.9.2019 by which the application under Section 311 of the Cr.P.C. filed by the applicant for completing the cross-examination of the prosecutrix has been rejected.
2. It is submitted by counsel for the applicant that the trial Court has erroneously rejected the questions put to the prosecutrix on behalf of the applicant and only for this reason the opportunity for completing the cross-examination was closed by order dated 13.8.2019. Subsequently, when the applicant filed an application under Section 311 of the Cr.P.C. making a prayer for completing the cross-examination of the prosecutrix, which has been erroneously rejected by the trial Court.

3. On perusal of the copy of deposition filed and the order-sheet dated 13.8.2019, the reason mentioned for closing the opportunity for the applicant is that despite the restraint on asking scandalous questions by the Court, the counsel is repeatedly putting same questions again and again, therefore, his opportunity to cross-examine is closed. The order for closing the opportunity of cross-examination by the applicant/accused side is manifestly incorrect which apparently shows that the cross-examination by the defence was not complete.
4. Section 278 of the Cr.P.C. very clearly provides that when any evidence of witness is completed, it shall be read over to him in the presence of the accused. The word completed mentioned in the provision means that the evidence has to be completed in every sense.
5. There is no provision under Cr.P.C. by which the Court has authority to close the opportunity of cross-examining a witness of cross-examination particularly when she is a prosecutrix. The Court has the power to control in putting questions in cross-examination as well as under the provisions of Indian Evidence Act, 1872, which are provisions under the Chapter X of the Examination of Witnesses. Section 146 of the Indian Evidence Act provides for lawful questions to be put in cross-examination. The Court can restrict putting of indecent and scandalous questions under the provisions of Section 151 of the Indian Evidence Act. Therefore, the Court has every right to exercise the powers given under the Indian Evidence Act, to control the examination and cross-examination of the witnesses. Code of Criminal Procedure nowhere provides that the cross-examination of any witness or witnesses can be stopped and the opportunity for cross-examination can be closed by the Court concerned. Therefore, the order dated 13.8.2019 is incorrect, improper and illegal. On this basis, this revision petition is allowed at

the motion stage and the impugned order dated 13.8.2019 is set aside.

The order dated 7.9.2019 has the same effect, which is also set aside.

The trial Court is directed to give an opportunity to the petitioner to complete the cross-examination of the prosecutrix.

6. Accordingly, this revision petition is disposed of.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi