

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1600 of 2019

- Golu @ Bhupendra Das Mahant, S/o Shri Manoj Das Mahant, Aged About 24 Years, R/o Village New Baradwar, Ward No. 04, Purani Basti, P. S. and Tahsil Baradwar, District-Janjgir Champa, Chhattisgarh,.

---- Applicant

Versus

1. State of Chhattisgarh Through Station House Officer, P. S. Baradwar, District-Janjgir Champa, Chhattisgarh.
2. Smt. Swati Suryawanshi, W/o Golu @ Bhupendra Das Mahant, Aged About 20 Years, R/o Village New Baradwar, Ward No. 04, Purani Basti, P. S. and Tahsil Baradwar, District-Janjgir Champa, Chhattisgarh.

---- Respondents

For applicant : Mr. Ravindra Sharma, Advocate.
For Respondent No.1/State: Mr. Avinash Kumar Mishra, Panel Lawyer.

For Respondent No.2 : Mr. Vaibhav A. Goverdhan, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

20/12/2019

Heard.

1. This petition is brought challenging the correctness, propriety and legality of the impugned order dated 06.12.2019 (Annexure-A/1) passed by the learned Special Judge, Atrocity, Janjgir-Champa, Chhattisgarh.
2. It is submitted that the petitioner and respondent No.2 have filed a joint application making a prayer for re-cross-examination of the prosecutrix, who is respondent No.2, but the same has been rejected by the learned trial Court in an arbitrary manner. Hence, this petition be allowed and the relief, as claimed, be granted.

3. Learned State counsel opposes the petition and the submissions made in this respect.
4. Learned counsel for respondent No.2 supports the version of the petitioner.
5. On perusal of the application filed under Section 311 of CrPC, it is found that the applicant has not specified as to on what point he had been unable to defend himself when the prosecutrix was cross-examined earlier. There is a requirement to make it specific the points and also the questions to be put to the prosecutrix, so that the Court shall be in a position to find out as to whether the applicant/accused failed to defend himself, and draw conclusion on the same accordingly and in case, it is found necessary to provide an opportunity to defend, the same may be provided as per provision of Section 311 of CrPC.
6. In view of above, this petition is disposed off at the motion stage with liberty to the applicant to file an application under Section 311 of CrPC afresh, making specific statement regarding the lapses in his defence and what shall be the questions he will put to the prosecutrix if she is recalled. On such application being made by the applicant, the same shall be considered and decided by the Court below concerned expeditiously in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge