

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 314 of 2020

Sanju Patel, S/o. Late Shri Rikhiram Patel, Aged About 38 Years, R/o. Patel Complex, Near The Gate of Adarsh Nagar Mowa Police Station Pandri District Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station Pandri Raipur, District Raipur Chhattisgarh.

-----Respondent

For Petitioner	: Mr. Pragalbha Sharma, Advocate
For Respondent/State	: Mr. Roshan Dubey, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

09/03/2020

1. This petition has been brought being aggrieved by the order dated 29.01.2020, passed by the learned Court of Sessions Judge, Raipur in S.T. No. 249 of 2018, by which the application filed by the applicant under Section 311 of Cr.P.C. has been rejected.
2. It is submitted that two main witnesses of the case namely Smt. Rekha Patel (P.W.-1) and Devendra Patel (P.W.-2) were examined by the counsel for the applicant, who was appointed through Legal Aid. Subsequently, the applicant has engaged his counsel and on perusing the copy of the depositions it has been found that the material questions relating to the Nazari Naksha, which appeared to be contradictory, have not been put to these witnesses, who claim that they are eye-witnesses, therefore, for

the purpose of defence of the applicant, the confrontation of the said Nazari Naksha was necessary to these witnesses. The learned trial Court has not appreciated the necessity of the defence and the lapse of the earlier counsel and passed the impugned order. Hence, this petition be allowed and relief be granted to the applicant.

3. State counsel opposes the petition and the submission made in this respect. It is submitted that the witnesses examined have clearly given details of the spot, where the incident has taken place and the applicant had all the opportunity to put questions in defence, therefore, the prayer made by the applicant does not appear to be bonafide. The learned Court below has not committed any error. It is prayed that the revision petition be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. On perusing the copy of the Nazari Naksha, which has been filed later on and also the deposition of the witnesses mentioned hereinabove, it appears that there is no specific question put to the witness regarding the spot of the incident and putting any question may be of importance for the defence purposes and regarding the presence of the witnesses on the spot at the time of the incident. Therefore, I feel inclined to allow this revision petition. The impugned order dated 29.01.2020 is set-aside. The applicant side is given liberty to re-cross-examine the witnesses

namely Rekha Patel (P.W.-1) and Devendra Patel (P.W.-2) only to the extent for confronting them with Nazari Naksha and for putting question to show their place of presence at the time of incident.

6. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram