

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 342 of 2020

Rakesh Baghel S/o Ant Ram Baghel Aged About 25 Years R/o Village Kosa, Post Kosa, Police Station Mulmula District Janjgir Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through S.H.O. Patan Police Station District Durg Chhattisgarh.
2. Ku. Vimla Yadav D/o Dular Yadav Tarrighat Teshil Patan District Durg Chhattisgarh.

---- Respondents

For Applicant	: Shri Anurag Jha, Advocate.
For Respondent No.1/ State	: Shri C.B. Kesharwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-03-2020

Heard.

1. This revision petition has been brought against the order dated 2.1.2020, by which the opportunity of the applicant to cross-examine the prosecutrix has been closed.
2. It is submitted by counsel for the applicant that on the date of hearing 13.9.2019, the prosecutrix was present for examination before the Court and her examination-in-chief was also recorded by the trial Court. Learned counsel for the applicant did not give appearance, therefore, the Court gave the applicant himself opportunity to cross-examine the witness and then the evidence of the prosecutrix was closed. It is further submitted that subsequently, the applicant filed an application under Section 311 of the IPC praying to cross-examine the prosecutrix through counsel which has been rejected later on dated 1.2.2020. It is

further submitted that the applicant has been denied his valuable right of defence, hence, interference be made by use of revisional jurisdiction.

3. Learned State counsel opposes the submissions made in this respect. It is submitted that the applicant had been given sufficient opportunity, therefore, there is no need of interference in the impugned order.
4. Heard counsel for both the parties and perused the documents present on record.
5. Perused the certified copy of the deposition of the prosecutrix filed alongwith the petition in which it is clearly demonstrated, that the counsel engaged for the applicant has not cross-examined the prosecutrix and it was only the applicant who has put same question to the prosecutrix which has been answered by her. Hence, it cannot be said that the applicant has been given proper and sufficient opportunity for his defence. The applicant as an accused has a right to defend himself through the counsel engaged by him. Therefore, the prayer made by him for cross-examining the prosecutrix through the counsel engaged by him was proper and that should have been allowed. Hence, the petition is disposed off at motion stage. Learned trial Court is directed to give one opportunity to the applicant for cross-examining the prosecutrix through his counsel by fixing a date for appearance of the prosecutrix.
6. Accordingly, this revision petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge