

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 1117 of 2019

Girdhari Gupta, S/o. Late Dinanath Gupta, Aged About 63 Years, R/o. Kharsia, District Raigarh, Chhattisgarh.

---- Petitioner

Versus

State of Chhattisgarh, Through : S.H.O. P.S. Tilda, Nevra, District- Raipur, Chhattisgarh.

-----Respondents

For Petitioner : Mr. Shivang Dubey, Advocate

For Respondent/State : Mr. Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/02/2020

1. This petition has been brought challenging the correctness and propriety of the order dated 01.07.2019, passed by the learned First Additional Sessions Judge, Raipur in Case No.236/2017 by which the application filed by the applicant under Section 302 of Cr.P.C. praying to assist the prosecution was rejected arbitrarily and erroneously.
2. Reliance has been placed on the judgment of Supreme Court in case of ***Dhariwal Industries Ltd. Vs. Kishore Wadhwani & Ors.***, passed in ***Cr.A. No. 859 of 2016*** on ***06.11.2016*** and in case of ***Rekha Murarka Vs. The State of West Bengal and Anr.***, passed in ***Cr.A. No.1727 of 2019*** on ***20.11.2019***, it is argued that the learned trial Court has not exercised its jurisdiction properly. Hence, the impugned order be set-aside.

3. Learned counsel appearing on behalf of the State opposes the petition and the submission made in this respect.
4. After considering on the submission made from both the sides, I am of this view that ratio as has been laid down by the Hon'ble Supreme Court in case of ***Dhariwal Industries Ltd. (supra)***, ***Rekha Murarka (supra)*** and in case of ***J.K. International Vs. State (Govt. of NCT of Delhi) & Ors.*** reported in ***(2001) 3 SCC 462***, I am of this view that the application filed by the applicant for assisting the prosecution should have been allowed by the trial Court. Hence, the impugned order is erroneous, which is liable to be set-aside.
5. Hence, this petition is disposed off at motion stage and the impugned order is set-aside. The application filed by the applicant is hereby allowed and the learned trial Court is directed to allow the private counsel engaged by the applicant to assist the prosecutor in that case.
6. Accordingly, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge