

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1637 of 2019

Sahjit @ Sahid Ansari S/o Shri Gani Khan Aged About 25 Years R/o Ward No. 13 Ramanujganj, Police Station Ramanujganj, District Balrampur-Ramanujganj, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Ramanujganj, District Balrampur-Ramanujganj, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Sonia Kuldeep, Advocate
For Respondent/State	: Mr. C.B. Kesharwani, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-02-2020

1. This revision petition has been brought being aggrieved by the order dated 1.3.2019 passed by the Learned Sessions Judge, Ramanujganj, District Balrampur-Ramanujganj in Special Sessions Trial (POCSO) No.21 of 2018 dismissing the application filed by the applicant under Section 311 of the Cr.P.C.
2. It is submitted by counsel for the applicant that the applicant failed to put specific question to the witnesses, namely, Rajkumari (PW-1) and the prosecutrix (PW-2) to contradict the stand of the prosecution regarding the age of the prosecutrix. Therefore, the applicant has been deprived of his valuable right of his defence because of a mistake committed by the counsel. Hence, it is prayed that the impugned order be set aside and an opportunity to re-cross-examine the witnesses on the specific point be granted to the applicant.
3. Learned State counsel opposes the submissions made and the grounds raised in the revision petition. It is submitted that the applicant had full

opportunity to cross-examine the witnesses, even then he chose not to put question to the prosecutrix with regard to age of the prosecutrix, therefore, it will show that the applicant has waived this opportunity and he cannot make a prayer for the same in this revision petition.

4. After considering the submissions made by counsel for both the parties and perusing the certified copy of the deposition of the witnesses, whom the applicant wants to put additional question in re-cross-examination, I am of this view that no question has been put in defence to the witnesses for the purpose of challenging the minority of the prosecutrix, therefore, I am of this view that the applicant should be afforded with this opportunity for his proper defence. Hence, on the basis of this observation, this revision petition is disposed off at the motion stage. The impugned order is set aside and the application filed by the petitioner under Section 311 of the Cr.P.C. is allowed.
5. The trial Court is directed to give an opportunity to re-cross-examine the witnesses, namely, Rajkumari (PW-1) and the prosecutrix (PW-2).
6. The cross-examination so permitted shall be limited only to the extent by putting questions to the witnesses for challenging the minority/ age of the prosecutrix and no further questions shall be allowed.
7. Accordingly, the revision petition is disposed off.

Certified copy of the order today.

Sd/-

(Rajendra Chandra Singh Samant)
Judge