

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 222 of 2021

1. Sanjay Manikpuri, S/o. Etwarsai Manikpuri, aged about 21 years,
2. Etwarsai Manikpuri, S/o. Hariram Manikpuri, aged about 50 years, R/o. Rajpurikhurd Saraipara, P.S. Ambikapur, District Surguja (Chhattisgarh).

---- Applicants

Versus

State of Chhattisgarh, Through - Police Station, Ambikapur, District Surguja (Chhattisgarh).

-----Respondent

For Applicant	: Mr. Amarnath Pandey, Advocate
For Respondent	: Mr. B.P. Banjare, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

25/03/2021

1. This criminal revision has been brought being aggrieved by the order dated 04.02.2021 by which, the application under Section 311 of Cr.P.C. filed by the applicant was dismissed by the trial Court.
2. It is submitted that the prosecutrix has been examined in the trial and she in her statement has stated that she and the applicant were having physical relation. Neither the prosecutor nor Court put any question to the prosecutrix to explain as to what does she understand from the word physical relation. Counsel for the applicants also failed to put any such question, therefore, it is necessary that the word physical relation expressed by the prosecutrix has to be explained. The application filed under Section 311 of Cr.P.C. for recalling of the prosecutrix for such

examination has been erroneously and illegally dismissed.

Therefore, the relief is prayed.

3. Learned State counsel opposes the petition and the submission made in this respect. It is submitted that the applicant had sufficient opportunity to cross-examine the prosecutrix, which he has availed. Further in the case of **Sethuraman vs Rajamanickam**, reported in **(2009) 5 SCC 153**, it has been held by the Supreme Court that the orders passed on Section 311 of Cr.P.C. are of interlocutory nature, therefore, they are not revisable, there being a bar under Section 397 (2) of Cr.P.C.. Hence, this revision petition be dismissed.
4. Considered on the submissions. Taking into consideration, the submission of the respondent that the impugned order is interlocutory order, therefore, it is not a subject to any revision under Section 397 (1) of Cr.P.C.. Therefore, this petition is disposed off. However, the matter is left to the discretion of the trial Court, if it is found necessary in future by the trial Court to seek explanation regarding words physical relation then the Court shall be at liberty to call the prosecutrix as the Court witness and make queries accordingly.
5. Accordingly, this revision petition is disposed off with aforesaid observation.

Sd/-
(Rajendra Chandra Singh Samant)
Judge