

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 467 of 2021

- Prashant Kathle S/o Shri S.K. Kathle, Aged About 21 Years, R/o Sheela Parisar, Phase-2, Bharti Nagar, Police Station - Civil Lines, Bilaspur, District - Bilaspur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station - Koni, Bilaspur, District – Bilaspur, Chhattisgarh.

---- Non-Applicant

For Applicant : Shri Dharmesh Srivastava, Advocate
For Non-Applicant/State : Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

09.12.2021

- 1) The applicant has preferred this revision petition under Section 397 read with Section 401 of CrPC against the order dated 06.07.2021 passed by the learned Additional Sessions Judge, Second Fast Track Special Court, Bilaspur (C.G.) in Special Criminal Case (POCSO) Act No. 105/2019 whereby the learned Court below rejected the application u/s 91 of CrPC filed by the applicant for calling the records relating to age of the victim to confirm her age.
- 2) Learned counsel for the applicant submits that prosecutrix is not minor but false and forged birth certificate & mark-sheet have been produced by the prosecution before the learned Court below and application of the applicant under Section 91 of CrPC was rejected by the Court below, on the ground that, the applicant will get opportunity of defence by

examining defence witness and adducing any documentary evidence in his defence, which is bad in law and arbitrary in nature. It is further submitted that co-accused persons have already been released on bail. Therefore, at this stage, set-aside the impugned order dated 06.07.2021.

- 3) On the other hand, learned State counsel supports the impugned order.
- 4) Considering the facts and circumstances of the case, the fact that Court below while rejecting application u/s 91 of Cr.P.C. filed by the applicant has observed that the appellant will have sufficient opportunity of defence at the stage of adducing defence evidence by examining his witnesses and producing relevant documents in relation to the age of the prosecutrix and even the said application has been filed after two years of filing of the charge-sheet at the stage of prosecution evidence. This Court finds no illegality or perversity in the revision assigned by the Court below while rejecting the application u/s 91 of CrPC of the applicant.
- 5) Consequently, the revision petition being devoid of substance deserves to be and is hereby dismissed at motion stage.

**Sd/-
(Gautam Chourdiya)
Judge**

Nadim