

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 712 of 2021**

- Siddharth @ Siddhyant Gupta, S/o Shri Chhedilal Gupta, Aged About 21 Years, R/o Village Padavpara Kota P. S. Kota, District- Bilaspur, Chhattisgarh. **---- Revisioner**

**Versus**

- State of Chhattisgarh, Through- Police Station In-charge Kota, District- Bilaspur, Chhattisgarh. **---- Respondent**

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For Revisioner : Shri Suresh Pandey, Advocate

For State/Respondent : Shri Anand Verma, Dy. G.A.

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**Hon'ble Shri Justice Gautam Chourdiya**  
**Order on Board**

**20.10.2021**

1. The matter is listed for order on admission and IA No. 01, application for staying the further proceedings of the Court below.
2. The present revision petition under Section 397/401 of CrPC is filed against the order dated 15.9.2021 passed by the Additional Sessions Judge/First FTSC (POCSO), Bilaspur rejecting the application under Section 311 of CrPC of the accused for recalling of the prosecutrix/victim and her mother for further examination.
3. Learned counsel for the revisioner/accused submits that the Court below was not justified in rejecting the application u/s 311 of CrPC as the victim as well as her mother could not be cross-examined on certain material facts which are necessary to be brought on record for just and proper adjudication of the case or else the defence of the

accused would be adversely affected.

4. On the other hand, learned State counsel supports the impugned order.
5. Heard learned counsel for the parties and perused the impugned order and the documents filed with the revision petition.
6. The trial Court while rejecting the application u/s 311 of CrPC of the accused observed that on 11.9.2019 examination-in-chief of the victim and her mother as PW-1 & PW-2 was commenced and it was adjourned for cross-examination on the request of the defence counsel and thereafter, on 15.9.2019 both these witnesses were cross-examined. In the application u/s 311 of CrPC, it is nowhere mentioned as to what facts are to be brought on record by way of further cross-examination of these witnesses. The accused was afforded sufficient opportunity for cross-examination of these witnesses which was duly utilized by him. Further, the Court observed that in the cases relating to POCSO Act, as per guidelines of the Apex Court and the High Court, the victim and her/his relatives are not be summoned frequently as it causes them an irreparable mental agony. The victim and her mother were already summoned twice for their evidence and after two years of completion of their evidence, the accused has filed this application, that too without disclosing any reasonable and sufficient cause for recalling them. The evidence of all the prosecution witnesses have been recorded and only statement of the accused remains to be recorded. Hence, considering all these facts and circumstances of the case, the Court below rejected the

application u/s 311 of CrPC filed by the accused. This Court finds no illegality or perversity in the reasoning assigned by the trial Court in the impugned order. Accordingly, the instant revision being without any substance is liable to be dismissed at the admission stage itself and is dismissed as such.

**Sd/-**

**(Gautam Chourdiya)**  
**Judge**

Nadim