

**IN THE HIGH COURT OF MADHYA PRADESH**

**AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 7<sup>th</sup> OF MAY, 2022**

**CRIMINAL REVISION No. 1513 of 2022**

Between:-

VICTIM X,  
AGED ABOUT 22 YEARS,  
THROUGH POLICE THANA GAUTAMPURA,  
DISTRICT INDORE (MADHYA PRADESH)

**.....APPLICANT**

***(BY SHRI SURYA PATIL, ADVOCATE)***

**AND**

1. THE STATE OF MADHYA PRADESH,  
THROUGH STATION HOUSE OFFICER,  
POLICE STATION GAUTAMPURA,  
DISTRICT INDORE (MADHYA PRADESH)
2. SMT. NIRMALA BAI,  
R/O GRAM GALONDA P.S. GAUTAMPURA,  
TEHSIL DEPALPUR,  
DISTRICT INDORE (MADHYA PRADESH)
3. SMT. AYODYABAI W/O SHRI SHYAMLAL,  
R/O GRAM GALONDA P.S. THANA GAUTAMPURA,  
TEHSIL DEPALPUR,  
DISTRICT INDORE (MADHYA PRADESH)
4. RAVI S/O SHRI SHYAMLAL SOLANKI,  
R/O GRAM GALONDA P.S. GAUTAMPURA,  
TEHSIL DEPALPUR,  
DISTRICT INDORE (MADHYA PRADESH)

**.....RESPONDENTS**

**(R.NO.1 BY SHRI RANJEET SEN, GA)  
(OBJECTOR BY SHRI PANKAJ TAKNET, ADVOCATE)**

*This Criminal Revision coming for admission on this day, the court passed the following:*

**O R D E R**

With the consent of the parties, heard finally.

The applicant has filed present revision under Section 397 read with Section 407 of the Code of Criminal Procedure, 1973 (in short "Cr.P.C.") against the impugned order dated 15/03/2022 passed by 13<sup>th</sup> Additional District Judge / Special Judge (under the POCSO Act), Indore in Special Case No.170/2017, whereby an application preferred by the applicant / prosecutrix under Section 311 of Cr.P.C. has been dismissed.

The brief facts of the case are that on 22/07/2017 the father of the applicant / prosecutrix has lodged an FIR that his minor daughter is missing from his house. During the investigation, it was found that the respondent / accused person abducted the minor prosecutrix and committed rape upon her. Accordingly offence has been registered.

After investigation is over, charge sheet has been filed before the trial Court and the trial Court after framing the charges afford an opportunity of hearing to the parties to adduce their evidence. Prosecutrix has been examined before the trial Court and after two years of examination, the applicant / prosecutrix has filed an application under Section 311 of Cr.P.C. stating that earlier when

her statement was recorded she was minor and she deposed her statement under the pressure of her parents. Now she became major and got married, therefore, she wants to adduce her evidence afresh and wants to examine herself as a witness before the trial Court again.

After hearing both the parties, the trial Court has rejected the application by the impugned order, therefore, this revision has been filed before this Court.

Learned counsel for the applicant / prosecutrix contended that the trial Court has committed serious error of law by ignoring the fact that at the time of evidence, the prosecutrix was minor. She was residing with her parents and under their pressure she deposed before the trial Court. Now she became major, therefore, she wants to examine herself again before the trial Court. The impugned order passed by the trial Court is perverse and bad in law. Hence he prays that the impugned order be set aside and the applicant / prosecutrix be permitted to re-examine herself as a witness.

In support of his contention, learned counsel for the applicant placed reliance upon a judgment delivered by the apex Court in the case of ***Jagjeet Singh & Ors. Vs. Ashish Mishra @ Monu & Anr.*** passed in Criminal Appeal No.632 of 2022 on 18/04/2022.

*Per contra*, learned counsel for the respondent / State opposed the same and prays for its rejection by supporting the impugned order. He stated that on earlier occasion prosecutrix

statement has been duly recorded by the trial Court by following the due process of law and now she cannot be permitted to contradict her own statement.

Counsel for the objector submitted that he has no objection, if the application under Section 311 of Cr.P.C. is allowed by this Court.

Parties are heard at length and perused the documents available on record as well as the case diary.

Considering all the facts and circumstances of the case, it appears that on earlier occasion prosecutrix was examined before the trial Court and after two years of her examination she has filed this application for restatement, but during the period of above 02 years prosecutrix did not made any complaint before the trial Court by stating that her statement was taken under the pressure of her parents.

It is noteworthy that prosecutrix statement has been recorded by the trial Court with due care and according to the law and after expiry of 02 years she has filed this application for re-examination, in these circumstances it appears that prosecutrix may be win over by the accused person by any undue means. Even if she permitted to change her statement before the Court, it would be dangerous for the legal system and it may be also misuse of Section 311 of Cr.P.C.

In the aforesaid facts and circumstances of the case the Court may become instrument of such illegal activities. In view of the

above this Court is of the considered opinion that the impugned order passed by the trial Court is just and proper and does not suffer from any legal infirmity, therefore, no case is made out for interference with the impugned order.

Accordingly, with the aforesaid observation, the criminal revision filed under Section 397 read with Section 401 of the Cr.P.C. is hereby dismissed.

Certified copy as per rules.

**(ANIL VERMA)**  
**JUDGE**

*Tej*