

IN THE HIGH COURT OF JHARKHAND AT RANCHI
I.A. No.1908 of 2020
In
Cr. Revision No. 114 of 2020

Archana Singh **Petitioner**

Versus

The State of Jharkhand**Opp. Party**

CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA

For the Petitioner :Mr. Ashish Verma, Advocate
For the State :Ms. Nehala Sharmin, A.P.P

04/Dated: 29.06.2020

I.A. No.1908 of 2020

1. The instant interlocutory application has been filed under Section 5 of the Limitation Act for condoning the delay of 30 days in preferring the present revision.
2. Learned APP has not raised any serious objection.
3. Heard. In view of the reasons assigned in paras 5 to 9, sufficient cause and reasonable explanation is made out, accordingly the delay is condoned and I.A. No.1908 of 2020 stands allowed.

Cr. Revision No.114 of 2020

1. The instant revision has been preferred against the order dated 01.10.2019, passed by the court of learned A.C.J.M., Chaibasa, in Misc. Cri. Application No.519 of 2019 in connection with G.R. Case No.124 of 2014 whereby the application filed under Section 311 Cr.P.C, read with Section 138 of Indian Evidence Act has been rejected.
2. Having heard learned counsel for the petitioner and learned APP and on perusal of the impugned order, it appears that the court below has rejected the petition for recall and cross-examination of PW-6 under Section 311 Cr.P.C, with the observation that if cross-examination of PW-6 is allowed then there is a likelihood that PW's-6 testimony would be demolished.

In fact, the court below has rejected the application without appreciating the settled legal position that Section 311 Cr.P.C, casts an obligation and duty on the court to ensure that the best evidence is adduced to enable the court to ascertain and determine the truth in deciding the

case. Section 311 Cr.P.C, empowers the court to recall, re-examine or examine any person or evidence which the court considers is essential for just decision of the case.

It is evident from the impugned order that the recall of PW-6 has been rejected by the court below on the ground which is not in consonance with the enshrined principles as embodied in the provisions of Section 311 Cr.P.C.

3. For the aforesaid reasons the petitioner is at liberty to file a fresh petition under Section 311 Cr.P.C, formulating the limited points for which the petitioner seeks cross-examination of PW-6. The court below, after giving an opportunity of hearing to the parties and after recording its satisfaction shall pass necessary orders in accordance with law and if the application is allowed then the cross-examination of PW-6 shall be confined and limited to the formulated questions. The recall of PW-6 shall be subject to the condition that the petitioner shall deposit cost of Rs.2,000/- to be paid to PW-6.

4. With the aforesaid direction the revision is, hereby, disposed off.

(AMITAV K. GUPTA, J.)