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**(2016) 01 RAJ CK 0092**

**In the Rajasthan High Court**

**Case No :** Cr. Revision Petition No. 143 of 2016.

Lalit @ Lucky

APPELLANT

Vs

State

RESPONDENT

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**Date of Decision :** 29-01-2016

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 311  
Penal Code, 1860 (IPC) — Section 349, 363, 366, 376  
Protection of Children from Sexual Offences Act, 2012 — Section 3, 4

**Citation :** (2016) 2 WLN 229

**Hon'ble Judges :** Mahesh Chandra Sharma, J.

**Bench :** Single Bench

**Advocate :** Girish Khandelwal, Advocate, for the Appellant; R.R. Gujar PP, for the Respondent

**Final Decision :** Partly Allowed

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## **Judgement**

Mahesh Chandra Sharma, J. - This revision petition has been filed by the petitioner against the order dated 14.1.2016 passed by the District and Sessions Judge, Ajmer in Case no. 58/2013 by which an application filed u/s 311 Cr.P.C by the petitioner has been rejected.

2. Briefly stated, the facts of the case are that a criminal case no. 58/2013 is pending for trial against the petitioner before District and Sessions Judge, Ajmer for the offence u/ss 363,343,366 and 376 IPC and Section 3 /4 of Protection of Child from Sexual Offences Act. It is stated in the petition that on the date when statements of prosecutrix were recorded, counsel for the petitioner was not present and thus the accused himself had cross examined the prosecutrix. It is further stated that the accused petitioner was not aware with law and he could not properly cross examine the prosecutrix. In such circumstances, an application for grant of an opportunity for cross examination of prosecutrix was moved u/s 311 Cr.P.C by the counsel for the accused, the same was dismissed vide the impugned order dated 14/1/2016.

3. Learned counsel for the petitioner has contended that the impugned judgment is bad in law and against the fact and material available on record and also against the criminal jurisprudence and principle of natural justice. It is further contended that the court below has not exercised jurisdiction provided u/s 311 Cr.P.C. It is further contended that counsel for the accused was not present on that date of cross examination of prosecutrix who is an important and material witness in the case, hence in the interest of justice, an opportunity to cross examine the prosecutrix by the counsel of the accused may be granted. It is further contended that the accused was not aware with the law and he could not cross examine the prosecutrix properly, hence one opportunity may be given to him.

4. Learned PP opposed the same.

5. Looking to the facts and circumstances of the case and also in the interest of justice, this revision petition is allowed and the impugned order dated 14/1/2016 is set aside and the the petitioner is granted one opportunity to get the cross examination of the prosecutrix by his counsel on the next date or any other date which the trial court deems fit and proper.