

(2012) 05 AHC CK 0206
In the Allahabad High Court
Case No : No. - 1672 of 2012

Om Prakash Chaurasiya and Another	APPELLANT
Vs	
The State of U.P and Another	RESPONDENT

Date of Decision : 15-05-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 311, 313, 91
Penal Code, 1860 (IPC) — Section 302

Citation : (2012) 05 AHC CK 0206

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Advocate : V.N. Shukla, for the Appellant;

Final Decision : Dismissed

Judgement

Hon"ble Ajai Lamba, J.—This petition challenges the order dated 24.4.2012 vide which the Court of Sessions/trial court has allowed the application u/s 91, read with Section 311 Cr.P.C. vide which the prosecution has been allowed to lead additional evidence. The only contention of the learned counsel for the petitioner is that the prosecution evidence was concluded on 20.12.2011 and at the stage of recording statement of the accused u/s 313 Cr.P.C. the said application was filed and has been allowed. In view of the above, the petition be allowed and the impugned order be set aside.

2. I have taken note of the contention of the learned counsel.

3. Before advertng to the stage of the case, it is required to be seen as to what is the nature of evidence sought to be brought on record.

4. It appears that when investigation was being conducted, from the place of occurrence blood-stained earth, blood-stained bamboo, bricks, slippers and other things were taken into possession. The said proceedings were photographed. The investigating officer, however, has not referred to the said relevant material. In such circumstances, the person who is in possession of the cassette containing

the videograph is required to be produced as a witness, with the cassette.

5. The trial is for commission of offence u/s 302, I.P.C. Surely, the nature of evidence is such that it would materially affect the result of trial. True facts would be unravelled before the trial court.

6. In my considered opinion, if the material is found relevant and would bring true facts to the fore, the process should not be throttled on account of stage of the case. Section 311 Cr.P.C. provides that the court at any stage of any inquiry, trial or other proceeding under this Code, summon any person its a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

7. A finding has been recorded by the trial court that the evidence sought to be brought on record would be essential for the adjudication of the case.

8. As a revisional court, this court, under the circumstances of the case, would not like to interfere in view of the nature of evidence, that is sought to be brought on record. The petition is accordingly dismissed.