
(2002) 04 JH CK 0029
In the Jharkhand High Court
Case No : Criminal M.P. No. 234 of 2002

Tetri Devi

APPELLANT

Vs

Sukro Mahto and Others

RESPONDENT

Date of Decision : 22-04-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 376

Citation : (2002) 04 JH CK 0029

Hon'ble Judges : D.N. Prasad, J

Bench : Single Bench

Advocate : Sudhir Kumar and Y.N. Jha, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

D.N. Prasad, J.—This is an application u/s 482 of the Code of Criminal Procedure against the order dated 11.6.2001, whereby and whereunder the learned trial Court rejected the prayer of the petitioner to recall the prosecutrix for further cross-examination u/s 311, Cr PC, in connection with Lohardaga PS. Case No. 110/99, which was registered u/s 376/34, IPC.

2. The learned counsel appearing on behalf of the petitioner submitted that subsequent development has been made as both parties have compromised the case outside the Court and a compromise petition has already been filed on 29.3.2001 and as such in the light of the said compromise petition, re-cross-examination of the prosecutrix is essential for the ends of justice but the learned Court below rejected the prayer illegally.

3. From perusal, it is obvious that a petition was filed for the recall of the prosecutrix for further cross-examination in the background of the compromise petition which was filed as back as on 29.3.2001 and in this respect Section 311, Cr PC, is also very much clear and thereby the trial Court ought to have granted the prayer of the petitioner for recalling the prosecutrix for her further cross-

examination for the ends of justice.

4. In the result, I find merit in this application, which is allowed. The order dated 11.6.2001 is, hereby, quashed. Let prosecutrix be noticed for her appearance for further cross-examination. It is, however, made clear that she must be cross-examined on the same day on which she will be present in the Court and if there will be any laches or delaying tactics on the part of the petitioner, the trial Court will proceed with the case in accordance with law without giving any further opportunity to the petitioner.