



2026:CGHC:13905

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 421 of 2026**

1 - Narayan Das @ Aryan Pant S/o Suresh Kumar Pant Aged About 20 Years R/o Bakawand Awaspara Thana Bakawand, Distt. Baster, Chhattisgarh.

... Applicant**versus**

1 - State Of Chhattisgarh Through P.S. Bakawand, Distt. Baster, Chhattisgarh.

2 - XYZ (Complaint Details Is An Envelope)

... Respondents

For Applicant	: Mr. Vikas A. Shrivastava, Advocate.
For State	: Mr. Akash Agrawal, P.L.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Order on Board****24/03/2026**

1. The instant petition has been filed under Section 438 read with Section 442 of BNSS, 2023 against the order dated 12.02.2026 passed by the learned Additional Sessions Judge F.T.S.C. (POCSO Act), Jagdalpur, District - Bastar (C.G.) in Special Sessions Trial No. 30/2024, whereby the application under Section 311 of Cr.P.C./348 of BNSS filed by the applicant has been rejected.



2. Briefly, the facts of the case are that charge sheet for the offence punishable under Sections 376(2)(n) of IPC and Section 6 of the POCSO Act has been filed by the concerned police station against the applicant and the same is pending for its trial. In this case, on 18.10.2024, the victim (PW-1) has been examined before the trial Court, and the defence counsel has afforded sufficient opportunities to cross-examine the victim. The applicant filed an application on 07.02.2026 under Section 348 of BNSS for re-cross-examination of the victim, which was rejected by the trial Court. Hence the petition.
3. Learned counsel appearing for the applicant submits that the victim (PW-1) was examined on 18.10.2024. Subsequently, on 07.02.2026, an application under Section 348 of BNSS was filed seeking her re-examination, on the ground that after the accused was released from jail, the victim engaged in a chat with the applicant on Instagram on 29.09.2025, wherein she admitted that she had lodged a false report under pressure from her elder father and out of greed for money; therefore, they wish to conduct a re-cross-examination of the victim, therefore, the application filed by the petitioner is genuine and the trial Court committed grave illegality in rejecting the application. Hence, the impugned order dated 12.02.2026 is liable to be quashed,



and the trial Court may be directed to give an opportunity for re-cross-examination of the victim (PW-1).

4. Learned State counsel submits that a perusal of the record clearly shows that the victim (PW-1) has already been examined, and the defence counsel has already afforded sufficient opportunities to cross-examine the said witness. The case is currently at the stage of defence witnesses, and this application appears to be filed by the defence to deliberately delay the trial; therefore, the petition is liable to be dismissed.
5. I have heard learned Counsel appearing for the parties and perused the documents annexed with the petition including the order impugned.
6. Section 348 of BNSS, 2023 states as under :-

348. Power to summon material witness, or examine person present.- Any Court may, at any stage of any inquiry, trial or other proceeding under this Sanhita, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or re-call and re-examine any person already examined; and the Court shall summon and examine or re-call and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

7. Section 33(5) of The Protection of Children from Sexual Offences Act, 2012 states as under:-

33. Procedure and powers of Special court.-

(5) The special Court shall ensure that the child is not



called repeatedly to testify in the Court.

8. In this context, the following opinion has been expressed by the Hon'ble Supreme Court in ***Madhab Chandra Pradhan & Ors. Vs. State of Odisha***, passed in Special Leave Petition (Crl.) No. 10082/2024 in paragraph 9 of the order dated 05.08.2024:-

“9. From a perusal of the record of the case, it is abundantly clear that ample opportunities were given to the defence counsel to cross-examine the victim. When the victim has been examined and then cross-examined at length twice already, mechanically allowing an application for recall of the victim, especially in trial of offences under the POCSO Act would defeat the very purpose of the statute. Hence, we find no error or illegality in the impugned order of the High Court or the Order dt. 10.10.2023 of the Special Court.”

9. The Hon'ble Supreme Court in the matter of State (NCT of Delhi) vs. Shiv Kumar Yadav and Another, reported in (2016) 2 SCC 402 has held that it is not justified to repeatedly summon the witness/victim merely on the basis of change of advocate or alleged deficiency in cross-examination. Paragraph 15 of which is as follows:-

“15. The above observations cannot be read as laying down any inflexible rule to routinely permit a recall on the ground that cross-examination was not proper for reasons attributable to a counsel. While advancement of justice remains the prime object of law, it cannot be understood that recall can be allowed for the asking or reasons related to mere convenience. It has normally to be presumed



that the counsel conducting a case is competent particularly when a counsel is appointed by choice of a litigant. Taken to its logical end, the principle that a retrial must follow on every change of a counsel, can have serious consequences on conduct of trials and the criminal justice system. The witnesses cannot be expected to face the hardship of appearing in court repeatedly, particularly in sensitive cases such as the present one. It can result in undue hardship for the victims, especially so, of heinous crimes, if they are required to repeatedly appear in court to face cross-examination.”

10. Looking to the material available on record and on perusal of the order impugned, it is clear that the evidence of the Victim (PW-1) was recorded on 18.10.2024, and the defence was given a reasonable opportunity to cross-examine the said witness, and they were discharged from evidence only after her cross-examination at length. In the application filed under Section 348 of BNSS, the Instagram chat is alleged to have taken place on 29.09.2025 and thereafter the application itself was submitted approximately four and a half months later, on 07.02.2026; moreover, the case is currently at the final stage of the defence evidence. Thus, it is clear that after giving sufficient opportunity for cross-examination to the defence counsel. The trial Court considered that the victim had been cross-examined in detail by the defence; consequently, in the interest of



justice, it did not appear necessary to recall her for further cross-examination to clarify subsequent circumstances and rejected the application.

11. Thus, in view of the aforesaid decisions of the Hon'ble Supreme Court in the subject matter and the provisions of Section 33(5) of the Special Act and also considering the facts and circumstances of the case, and the material available on record, I do not see any illegality or perversity in the order impugned to interfere with the order.
12. Accordingly, the instant petition is hereby **dismissed** at motion stage itself.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

H.L. Sahu