

Criminal Revision
Present: The Hon'ble Justice Ashim Kumar Roy
Judgment On : 05-05-2010.
C.R.R. No. 1186 of 2010
Buddhadeb Chandra & Ors
versus
The State of West Bengal

Points:

Examination on recall: Witnesses whether can be recalled if examination of those witnesses are not necessary for just decision of the case –Code of Criminal Procedure, 1973 S.311

Facts:

The petitioners have been facing their trial for offence punishable under Sections 498A/306/34 of the Indian Penal Code and after the 313 examination of the accuseds was over, the application under Section 311 of the Code of the Criminal Procedure was moved for recalling of those witnesses for their re-examination to suggest that the victim, Mousumi, committed suicide as she was unable to conceive.

Held:

The examination of the said witnesses is not at all necessary for just decision of the case. Accordingly, it cannot be said that the order impugned suffers from any illegality or any infirmity. Para-2

For Petitioners : Mr. Abhijit Kumar Adhya
For State : Mr. Joy Sengupta

The Court:

Heard Mr. Abhijit Kumar Adhya, Learned Counsel, appearing on behalf of the petitioners as well as Mr. Joy Sengupta, Learned Counsel, appearing on

behalf of the State. Perused the impugned order and other materials on record.

2. The subject matter of challenge in the instant criminal revision is an order whereby the Trial Court rejected the petitioners' prayer for re-examination on recall of five prosecution witnesses, viz., P.W. 1, P.W. 2, P.W. 5, P.W. 8 and P.W. 14. It appears from the materials on record that the petitioners have been facing their trial for offence punishable under Sections 498A/306/34 of the Indian Penal Code and after the 313 examination of the accuseds was over, the application under Section 311 of the Code of the Criminal Procedure was moved for recalling of those witnesses for their re-examination to suggest that the victim, Mousumi, committed suicide as she was unable to conceive. It further appears that those witnesses were examined at length. The defence got sufficient opportunities to cross-examine them, but nothing was suggested to those witnesses that she committed suicide being unable to conceive. This is a case where there has been a change of lawyer and the new lawyer after taking over of the charge of the case, moved this application for putting this suggestion to those witnesses.

Now, having regards to the materials on record, I am of the opinion that the examination of the said witnesses is not at all necessary for just decision of the case. Accordingly, it cannot be said that the order impugned suffers from any illegality or any infirmity.

This criminal revision has no merit and accordingly stands dismissed.

Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)

