

SC No.11/2020
FIR No.111/2019
PS Chanakya Puri
U/s. 302/201 IPC
State Vs. John Arun Peter

13.05.2024

Present : Sh. Ghanshyam, Ld. Substitute Addl. PP for State.

Accused in person on court bail.

Sh. Vikas Arora, Ld. Counsel for the accused.

PW Dr. Anisha Anshu absent despite service.

PW-24 Inspector Ugesh Kumar cross-examined and discharged. PW-25 Dr. Prannay Sharma examined and discharged.

Inspector Ashok Kumar present. He is discharged unexamined as Ld. Counsel for the accused not available and for that matter, Ld. Substitute Addl.PP for the State is also not available later.

An application U/s.311 Cr.PC was moved by Ld. Counsel for the accused for recalling PW23 SI Sombir for cross examination, who could not be cross-examined on the day when he was examined. The prosecution didn't opt to file reply and contested straightaway.

It is contended on behalf of the applicant that PW23 SI Sombir who was examined on 09.04.2024 could not be cross examined as the counsel could not appear in time whereas, the testimony of PW23 SI Sombir is required to be tested through cross examination as he was Incharge of the Mobile Crime Team. The cross examination may affect the testimony of the eye witness, therefore, his cross-examination is important and as the application was moved on that very day when the examination-in-chief was conducted which reflects that the counsel for the

accused was prevented by circumstances and that he appeared a bit later and it was not deliberate and intentional.

The Ld. Substitute Addl.PP for the State on the other hand submits that testimony of the witness in question is very formal in nature and as such, even if he is not cross-examined, still it may have no impact on the defence of the accused. As such, it is stated that the application be declined.

Having heard the submissions made by the contesting sides especially the fact that cross-examination is the only tool in the hands of the opposite party to test the case, it's veracity and credibility of the witnesses, therefore, cross examination should ordinarily not be denied. It is also correct that Section 311 Cr.PC., which has been invoked by counsel for the accused, has been liberally interpreted by the courts with the sole view to extract the truth and avoid any miscarriage of justice. The application seems bonafide inasmuch as counsel for the accused moved the application on that very day when the examination-in-chief of PW23 SI Sombir was conducted.

Therefore, considering the entire gamut of facts and circumstances, the application moved on behalf of the applicant U/s.311 Cr.PC requiring cross examination of PW23 is allowed, subject to availability of the witness.

Application stands disposed off accordingly.

List on **04.07.2024** for prosecution evidence. PW23 SI Sombir be called too.

(Vimal Kumar Yadav)
Principal District & Sessions Judge
New Delhi District
Patiala House Courts/ND/13.05.2024