

	In the Court of Addl. Judl. Commissioner- IV, -cum- Spl. Judge, POCSO, Ranchi. Misc. Criminal Application No. 2223/2024 CNR JHRN01-008885-2024 <u>Mudassar Nazar Vs. State</u>	
07.04.2025	A petition filed by the petitioner accused Mudassar Nazar u/s 311 Cr.P.C. for recall the prosecution witness P.W.5 for re-examine which is essential for just decision of the case and copy of the petition served to learned Spl. P.P. and rejoinder has also been filed by Addl. P.P. Heard both the parties. Learned lawyer of the petitioner submitted that by way of instant petition, it is prayed by the petitioner to recall the P.W.5 victim. It is submitted that P.W.5 victim has not been fully examined on 03.07.2024 by the defence due to condolence meeting in RDBA which was convened at 1.30 PM and the lawyers shall be abstained from the court after condolence meeting. It is further submitted that learned court has not deferred the date for examine the witness and discharge the witness while the examination of witness was incomplete and not examine in full length and it appears to be essential to the just decision of the case. It is therefore prayed to recall P.W.5/ victim in this case for her re-examination as it is a very important and crucial for the just and fair decision of this case. Ld. Addl. P.P. has opposed the prayer and it has been submitted that victim/ P.W.5 has already been examined, cross examined in full length and thereafter she was discharged. Perused the case record. It appears that on 06.01.2022 charge has been framed u/s 366,376(2)(n) of IPC by the court of AJC-VI, Ranchi and altogether five witnesses including victim have been examined. Thereafter, this case record has been received on transfer from the court of AJC XV, Ranchi as the victim girl was below the age of 18 years at the time of occurrence. It appears that victim was produced by the prosecution on 02.07.2024 and she was examined in presence of the accused and learned defence counsel also present before the	

Contd.../2 07.04.2025	court where the victim/ P.W.5 has identified the accused present before the court and she was examined and partly cross examined and her further cross examination was deferred for next date and on next date 03.07.2024 she was cross examined at full length and thereafter she was discharged by the court. There are 13 witnesses mentioned in the charge sheet and out of them five witnesses have been examined. This is one of the old case of this court and this case is received on transfer from the court of AJC XV, Ranchi on 27.03.2025 and the case is further fixed for hearing on the point of charge under POCSO Act, so question of recalling this witness P.W.5 does not arise and defence just want to delay in disposal of the case and he has filed petition u/s 311 Cr.P.C. after more than nine month of examination of the victim. It is not justified to recall the P.W.5 for just fulfill the lacuna and defence has been already cross examined the P.W-5/ victim at full strength and it is also against the provision of Section 33(5) of POCSO Act, 2012. Considering the above facts the petition filed by the petitioner accused u/s 311 Cr.P.C. is hereby rejected. Accordingly, this Misc. Cr. Application No. 2223/2024 is hereby disposed of. (Dictated) Sd/- (Asif Equbal) Spl. Judge, POCSO Ranchi	
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