

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 2nd OF MAY, 2024
MISC. CRIMINAL CASE No. 14009 of 2024**

BETWEEN:-

**ANAS SHAH S/O AAZAD SHAH, AGED ABOUT 20
YEARS, NEAR NADE WALE BABA KI GALI,
RAJIV NAGAR, KHAJRANA, INDORE (THANA
KHAJRANA INDORE) (MADHYA PRADESH)**

.....APPLICANT

(SHRI MANOJ KUMAR AGRAWAL, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
KHAJRANA DISTRICT INDORE (MADHYA
PRADESH)**

.....RESPONDENTS

(MS. BHARTI LAKKAD, GOVT. ADVOCATE)

*This application coming on for order this day, the court passed
the following:*

ORDER

1. This petition has been filed by the petitioner under Section 482 of Criminal Procedure Code, 1973 (hereinafter to be referred to as Cr.P.C.) against the order dated 7.2.2024 passed by the Special Sessions Judge (Protection of Children from Sexual Offences Act, 2012(POCSO)), (the learned 14th Additional Session Court, Indore) in

SC.No.246/2023 (State Vs. Anas); whereby, the application filed under Section 311 of the CRPC for recalling the victim as also the mother of the victim, has been rejected.

2. In brief facts of the case are that the petitioner is facing trail under Section 376 of IPC in which the prosecutrix and others witnesses have already been examined. However, after the change of counsel, an application under Section 311 of CRPC was filed by the new counsel stating that certain suggestions could not be made to the mother of the victim as also the victim, who have been examined as (PW-2) and (PW-1) respectively. The aforesaid application has been rejected on the ground that due opportunity of cross examination has already been provided to the petitioner, and the petitioner has also not stated as to what are the reason for recalling the said witnesses for reexamination. The petitioner has also not stated in its application under Section 311 of CRPC as to why reexamination of said witnesses is necessary.

3. Counsel for the petitioner has drawn attention of this Court to the various documents filed before this Court on 23.4.2024, to submit that the mother of the prosecutrix was having an affair with the petitioner/accused which led her to lodge a false case against him, and thus, certain questions are required to be put to the mother of the prosecutrix.

4. Counsel for the respondent/State on the otherhand has opposed the prayer.

5. Having considered the rival submissions, on perusal of the documents filed on record, including the deposition of the prosecutrix and her mother, this court is of the considered opinion, all the possible defences have already been taken by the petitioner in the cross examination of the aforesaid two witnesses, in such circumstances, their further cross examination is not necessary and the learned judge has not committed any error in rejecting the application under Section 311 of CRPC filed by the petitioner.

6. The petition being devoid of merits is hereby **dismissed**

(SUBODH ABHYAKAR)
JUDGE

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