

**HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**

**BEFORE HON. SHRI JUSTICE ALOK VERMA,J**

**M.Cr.C. No.4649/2015**

**Shantilal**

**Vs.**

**State of M.P.**

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Shri Ashish Vyas, learned counsel for the applicant.

Smt. Mamta Shandilya, learned counsel for the respondent/State.

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**ORDER**

**(Passed on 09/07/2015)**

This application under section 482 Cr.P.C. is directed against order passed by the learned 2<sup>nd</sup> Additional Sessions Judge, Sendhwa, District Barwani in Criminal Revision No.33/2015 dated 23.05.2015 which was directed against the order passed by the learned Judicial Magistrate First Class in Criminal Case No.16/2015 dated 09.03.2015.

2. Brief facts giving rise to this revision are that the present applicant is facing trial before the Judicial Magistrate First Class in Criminal Case No.16/2015 under sections 304, 279 and 337 of IPC. In this case on 24.07.2014 two

prosecution witnesses Dayaram (PW-1) and Dinesh (PW-2) were examined. After their examination and cross-examination, they were released by the Court, however, immediately after their statements were recorded an application under section 311 Cr.P.C. was filed by the present applicant which was disposed of by the impugned order by the learned Magistrate. The learned Magistrate observed that sufficient opportunity was granted to the applicant and his counsel to cross-examine the witnesses and, therefore, no further opportunity should be granted. The learned Magistrate placed reliance on judgment of Hon'ble Apex Court in case of **Kali Vishwakarma vs. State of Jharkhan; 2005 Cr.L.J. 4233** and **Mohammad Hussain Umar Kojra vs. Dilipsingh and others; AIR 1970 SC 45** etc. and opined that once sufficient opportunity was granted to the accused to cross-examine the witnesses produced by the prosecution, no further opportunity should be granted. The Revisional Court relied on judgment of the Hon'ble Apex Court in case of **Seturaman vs. Rajamanikkam; 2009 AIR SCW 2066** in which it was held that the order passed under section 311 Cr.P.C., no revision is maintainable.

3. Now this application under section 482 is filed on the ground that as no revision is pending, the matter can be interfered only by this Court using extraordinary jurisdiction granted by section 482 Cr.P.C.

4. I have gone through the impugned order of the learned Judicial Magistrate, it is apparent that sufficient opportunity was granted to the counsel for the respondent. He knew the existence of statements of the witnesses under section 164 Cr.P.C. Only because the advocate of the accused did not take proper care while cross-examining the witnesses is no ground for recalling the witness. If witnesses are allowed to be recalled on this ground, it would start an endless process. Therefore, in my opinion, no ground exists for interference under section 482 Cr.P.C. this application is devoid of merit and liable to be dismissed and dismissed accordingly with cost of Rs.200/- on the applicant.

**( ALOK VERMA )  
JUDGE**