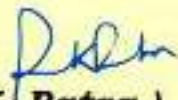




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| 2. | 16.6.2004 | <p>Respondent No.2 has entered appearance through Shri J. K. Chandak.</p> <p>Put up on 30.6.2004 for hearing.</p> <p style="text-align: right;"><i>R.K.</i> (R. K. Patra) Chief Justice</p> | |
| 3. | 30.6.2004 | <p>This revision is directed against the order dated 20th April, 2004 passed in ST (Vig) Case no. 1 of 2004 by which the learned Special Judge has rejected the prayer of the prosecution to re-examine respondent no.2 under section 313 Cr.P.C. on the ground that there is no necessity to re-examine him because "all the incriminating evidences that had come on record have been put to him and he has given reply to the same".</p> <p>I have heard Shri J. B. Pradhan, learned Government Advocate for the petitioner and Shri J. K. Chandak, Advocate for respondent no.2.</p> <p>In the application filed by the prosecution seeking re-examination of the respondent no.2 under section 313 Cr.P.C: it was stated that there are certain incriminating circumstances against the respondent no.2 emanating from the evidence of PWs 2, 4, 5, 6, 13 and others and it is necessary to put certain questions to him under section 313 Cr.P.C. on the basis of the evidence mentioned above to enable him to explain the same.</p> <p>The purpose behind section 313 Cr.P.C. is well-known. Law requires that attention of the</p> | |



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| | | <p>accused should be drawn to every inculpatory material so as to enable him to explain the same. It casts a duty on the Court to place before the accused the facts and circumstances appearing against him in order to give an opportunity to explain them and help him in proving his innocence. If the prosecution thinks that certain inculpatory evidence had not been brought to the notice of the accused and it is necessary to re-examine him under section 313 Cr.P.C. for that purpose, the accused cannot have any legitimate grievance against it and this would not prejudice the accused in any manner.</p> <p>The learned Special Judge has committed gross illegality in rejecting the prayer of the prosecution. He seems to misunderstood the purpose of section 313 Cr.P.C. For the reasons aforementioned, I hereby set aside the impugned order dated 20th April, 2004 and allow the application dated 15th April, 2004 filed by the prosecution. The learned Special Judge is accordingly directed to re-examine the respondent no.2 under section 313 Cr.P.C. on the basis of the prayer made by the prosecution in its application referred to above.</p> <p>The revision is accordingly allowed.</p> <p style="text-align: right;"> (R. K. Patra) Chief Justice</p> | |