

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 2036 OF 2008
[Arising out of SLP(Crl.)No.2929 of 2007]

PRAHALAD MAHTO

... **Appellant(s)**

Versus

STATE OF JHARKHAND & ORS.

... **Respondent(s)**

ORDER

Leave granted.

Despite service of notice, except for the State of Jharkhand, none of the other respondents, who are accused in the trial, are present before us.

The appellant before us is the complainant on whose complaint, the criminal proceedings were commenced. It is his grievance that despite his repeated endeavours, he was not examined by the prosecution, as a witness and despite being the victim of the assault, his case was not being

-2-

properly represented before the trial court. He, in fact, made an application to the

trial court to allow his statement to be brought on the records.

Subsequently, the State made an application under Section 311 of the Code of Criminal Procedure to examine three witnesses, including the complainant/appellant before us and two other witnesses – one the Investigating Officer of the case, and the other the Medical Officer, who examined the victim. The application under Section 311 of the Cr.P.C. was duly allowed by the trial court, but upon the accused moving the High Court, the High Court set aside the said order, against which the present appeal has been filed by the complainant. In fact, the appeal ought to have been filed by the State, which seems to have been slack in prosecuting the case. Be that as it may, having heard learned counsel for the parties, we are convinced that in order to do justice between the parties, the application under Section 311 Cr.P.C. filed by the State was rightly allowed, notwithstanding the delay in the trial.

Accordingly, while setting aside the order of the High Court and restoring that of the trial court, we direct that the examination of the defendants' witnesses be

-3-

completed within two months from the date of communication of this order and the trial is to be completed within three months thereafter.

The appeal is allowed accordingly.

.....J.
(ALTAMAS KABIR)

.....J.
(MARKANDEY KATJU)

New Delhi,
December 15, 2008.

