



CGHC010396242026

2026:CGHC:43941
NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 2632 of 2026**

1 - Uttra Sahu D/o Puniram Sahu Aged About 45 Years R/o Meena Bhawan Mana Camp, P. S. Mana Camp, Raipur, Tehsil And District Raipur Chhattisgarh. And Other Address Poultry, Traders Village Kansada, Shivrinarayan, District Janjgir Champa Chhattisgarh.

--- Petitioner**versus**

1 - Satya Poultry Traders Proprietor Shivare, Son Of Shri Muktanand Shivare, R/o Near Govt. School, Bhathagaon, Raipur Chhattisgarh.

2 - State Of Chhattisgarh Through Collector, Raipur District Raipur Chhattisgarh.

--- Respondent

(Cause title is taken from CIS system)

For Petitioner	: Mr. C.R. Sahu, Advocate
For Respondent/State	: Mr. Ramnarayan Sahu, P.L.

Hon'ble Shri Justice Parth Prateem Sahu**Order On Board****09/10/2026**

- The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed challenging the impugned order dated 11.09.2026, passed by learned 2nd Additional Sessions Judge, Raipur (C.G.), in Criminal Revision No. 93 of 2025, whereby order dated 03.12.2024, passed by learned Judicial Magistrate First Class, Raipur, in Criminal Complaint Case No. 1765 of 2018, closing right of petitioner to lead defence evidence, has been affirmed.

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2. Learned counsel for petitioner would submit that a complaint under Section 138 of Negotiable Instrument Act, 1881 (In short 'the Act, 1881) is filed by respondent No.1, before the Court of competent jurisdiction and the case is registered in the year 2018. Since 2018, the complainant has not examined himself or his witness. The complainant has closed his evidence only on 05.09.2024. He further contended that thereafter, the case was fixed for recording of statement of accused on 20.09.2024 on that date, time was sought and again the case was fixed on 25.09.2024 within a period of less than one week. Statement of the accused was recorded and thereafter, petitioner submitted an application under Section 91 of Cr.P.C. for production of documents and further sought time to give defence witnesses to examine the defence witness. The case was thereafter fixed for 14.11.2024, 20.11.2024, 27.11.2024, however, the petitioner could not examine the defence witnesses. He submits that from last date of closing of the evidence by the complainant only very short time was granted to the accused persons to produce the defence witness and thereafter right to give defence witness has been closed.
3. He further submits that though some adjournment was sought by petitioner to lead his defence witness but the same was with the genuine reason. Petitioner cannot be deprived of her legal right to lead defence witnesses. The order impugned would prejudice her defence, which is definitely not the object of a fair trial. He also submits that closure of right to lead defence witness would defeat the ends of justice, which is in violation of principles of natural justice. He submits that one last opportunity may be granted to petitioner to lead defence witness by imposing suitable cost upon petitioner.

4. I have heard learned counsel for parties and perused the documents placed on record.
5. Perusal of impugned order shows that petitioner is facing trial in a criminal complaint case filed by respondent under Section 138 of the Act, 1881. The complaint has been pending since 2017, and the trial has been continuing for several years. It further shows that after recording the statement of the accused/petitioner on 25.09.2024, the case was fixed for defence evidence upon submission of list of witnesses by petitioner. The case was thereafter fixed for defence evidence on 14.11.2024, 20.11.2024 and 03.12.2024. The order further shows that, on 20.11.2024 and 03.12.2024, the petitioner was informed that the last opportunity was being granted to lead defence evidence, as the case was more than five years old, and that failure to produce defence evidence would result in closure of her right.
6. It further appears from the impugned order that the petitioner's right to lead defence evidence was closed on 03.12.2024, within about two months from the date on which the case was first fixed for defence evidence. Though the petitioner had sought some adjournments to examine her defence witnesses, which caused some delay, there may have been reasons for seeking such adjournments. Therefore, the petitioner's right to lead defence evidence in the facts of the case, ought not to have been closed without properly considering the reasons for the delay and giving her a fair opportunity to present her defence.
7. The petitioner is facing trial under Section 138 of the Negotiable Instruments Act, 1881. Therefore, the principles of fair trial and natural

justice cannot be ignored merely on the ground of delay in the trial. The petitioner has the right to examine defence witnesses in support of her case. The learned trial Court ought to have considered and decided the petitioner's request objectively, keeping in view the interest of justice. In view of the above, this Court is of the view that instead of closing the right of petitioner to lead defence evidence, this Court is of the opinion that one last opportunity should be granted to petitioner to produce her defence witnesses.

8. Accordingly, this petition is allowed. The impugned order dated 11.09.2026 passed by learned 2nd Additional Sessions Judge in Cr.R. No. 93 of 2025, arising out of the order dated 03.12.2024, passed by learned Judicial Magistrate First Class, Raipur in Criminal Complaint Case No. 1765 of 2018 is hereby set-aside. Petitioner/accused is permitted to lead her defence evidence in the case, subject to payment of the cost of Rs.1,000/- payable to the complainant. The learned trial Court is directed to fix a date for recording of evidence of the defence witnesses and shall record the same. The petitioner shall positively examine the defence witnesses on the date fixed, without seeking any adjournment except in exceptional circumstances.

Sd/-
(Parth Prateem Sahu)
Judge