

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 525 of 2015

Deepak Kumar Ratre, S/o Khiram Ratre, Aged about 43 years, R/o.
Village Niktikhar, Beside Paliriya Krishi Farm, Balkonagar, Tahsil and
District Korba, Chhattisgarh

---- Petitioner

Versus

1. Ramkumar Singh, S/o Garjan Singh, Aged about 35 Years, R/o. Purani Basti, Tahsil & District -Korba.
2. State of Chhattisgarh, Through Collector -Korba, District-Korba, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Ashutosh Shukla, Advocate
For Respondent	:	Shri Arvind Shukla, Dy. Government Advocate.

HON'BLE GOUTAM BHADURI

Order On Board

07/07/2015

1. This is a petition against the order dated 24th April, 2015 passed in Criminal Revision No.17/2015 by the learned Additional Sessions Judge (FTC) ,Korba (C.G.) whereby the orders passed on 31-10-2014 and 23-02-2015 in Criminal Case No.150/2011 by C.J.M., Korba have been affirmed.
2. Briefly stated facts of the case are that the petitioner/ non-applicant has been prosecuted by defendant Rajkumar Singh in connection with offence punishable under Section 138 of the Negotiable Instruments Act. The case was registered as criminal case No. 150/11 wherein the complainant had examined himself. Thereafter, the case was fixed for evidence of the petitioner/non-applicant. It was stated that the concerned cheque was returned to the respondent and to this effect the

petitioner wanted to adduced evidence. However, since the petitioner was absent, the arrest warrant was issued by the trial Court on 31.10.2014 and he was subsequently arrested and was sent to custody.

3. Learned counsel for the petitioner submits that predominantly the petition is for closure of evidence of the accused and the court below should have allowed the same since the petitioner was ill and consequently, an opportunity of evidence should have been given to the petitioner.
4. Reading of the order of the revisional court would show that the case was fixed for evidence of defence. A perusal of the order would further show that on 18.08.2004, the statement of the accused was recorded and thereafter at the request of the accused/non-applicant i.e., petitioner herein, the case was fixed for non-applicants evidence on 11.09.2014, 15.09.2014, 26.09.2014, 01.10.2014 and lastly when the case was fixed on 30.10.2014 an application along with medical certificate was filed showing that the petitioner is unable to attend the court. On such application, the learned C.J.M. on 31.10.2014 summoned the doctor who issued the certificate and on examination, the doctor deposed that the petitioner/accused was able to attend the court and it was stated by the doctor that the medical certificate was obtained on the ground that he wanted to avail departmental leave and therefore on 29.10.2014, such certificate was issued. Hence on examination of the doctor, according to the court, it came to the notice that a false certificate has been produced. Consequently, the right to lead evidence was closed.
5. Normally the Courts are liberal to grant opportunity of evidence to the parties. But when the facts came to fore that deliberate attempts and

false averments have been made especially on medical ground though the witness was hale and hearty, but just to protract the trial the said certificate was obtained, it will be difficult for the Court to accept the same. This fact has come on record that a false medical certificate has been placed. In such circumstances, if further opportunity of evidence is granted, it would encourage the litigants and provoke the parties to make false averments before the Court. Certainly the same cannot be the spirit of law. In the circumstances, I do not find any merit in this case to invoke the jurisdiction under Section 482 of the Code of Criminal Procedure.

6. In the result, the petition has no merit and it is dismissed at the admission stage itself.

Sd/-

**GOUTAM BHADURI
JUDGE**