

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P No. 582 of 2015

Amit Singh Chaudhary, S/o. Shri Munna Lal Chaudhary, aged about 33 years, R/o. A/103, Usha Heights, Sirikant Verma Marg, Police Station Tarbahar, District Bilaspur (C.G.)

---- Petitioner

Versus

1. Prince Bawra, S/o. Sardar Malender Singh, aged about 33 years, R/o. Songanga Colony, C/31, Police Station Sarkanda, District Bilaspur (C.G.).
2. State of Chhattisgarh, Through : Its District Magistrate, District Bilaspur (C.G.)

---- Respondent

For Petitioner	:	Mr. Mateen Siddiqui, Advocate
For Respondent/State	:	Ms. Farah Minhaz, P.L.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15/07/2015

1. Challenge in this petition is to the order dated 23.06.2015, passed in Criminal Revision No.36/2015, by the Additional Sessions Judge, Bilaspur, whereby the order dated 07.01.2015, passed by the learned Judicial Magistrate First Class, in Criminal Case No.11330/2014, between Prince Bawara and Amit Singh has been affirmed.

2. The respondent No.1 filed a complaint under Section 138 of the Negotiable Instrument Act for two cheques amounting to Rs.83,000/- and Rs.1,15,000/-, issued by the petitioner in discharge of his legal debt. It was dishonoured for want of funds. Consequently, after service of notice, the complaint under Section 138 of the Negotiable Instrument Act was filed.
3. The Court after closure of the evidence of the complainant, fixed the case for defence evidence. Thereafter, since the petitioner could not produce his witness, despite several dates, the right to adduce evidence was closed. The said order was challenged before the Revisional Court and the Revisional Court by the impugned order, confirmed the order passed by the Judicial Magistrate First Class.
4. Learned counsel for the petitioner submits that there is wrong finding of fact was recorded by the Judicial Magistrate First Class since the Judicial Magistrate First Class has recorded that the process fee to procure the witnesses was not paid, but it was actually paid on different dates as per Annexure P/8 i.e. for 22.07.2013, 25.09.2014, 05.11.2014, 11.06.2014 and 10.09.2014, therefore, he may be given a chance to adduce evidence in defence.
5. Perusal of the order of the Revisional Court, it records that complainant has closed his defence on 07.11.2012, thereafter, the statement of the petitioner was recorded under Section 313 of Cr.P.C. on 29.11.2012. Thereafter, it was adjourned to 13.12.2012 for defence evidence. On 13.12.2012, the petitioner moved an

application under Section 315 of Cr.P.C. to appear as a witness, the same was allowed by which he was allowed to appear as defence witness and the case was adjourned for defence witness 24.01.2013 then 14.02.2013, 23.02.2013, 05.03.2013.

6. On 05.03.2013, another application was moved for calling finger print expert by the petitioner, which was allowed by order dated 29.05.2013, whereby one Ms. Sunanda Dhenge, Finger Print Expert was allowed to be examined as expert and the case was adjourned for 19.06.2013 and subsequently adjourned to 22.08.2013 for defence evidence. On 22.08.2013, another application was moved by the petitioner to summon government expert from CID department, but it was dismissed on 12.09.2013 and case was adjourned to 11.10.2013 for defence evidence. Subsequently, there has been dates of 12.11.2013, 12.12.2013, 25.01.2014, 25.02.2014, 25.03.2014, 11.04.2014, 11.06.2014, 11.07.2014, 11.08.2014, 10.09.2014 as the order records all the opportunities mentioned here in before were the effective opportunities, but the petitioner did not lead any evidence in defence. Consequently, on 10.09.2014, the Trial Court closed the opportunity for his personal examination as a witnesses but even after that the witnesses were not examined on the next three dates i.e. 25.09.2014, 05.12.2014 and 07.01.2015 and eventually on 07.01.2015, the learned Trial Court closed the defence evidence.
7. Considering the facts of the case, normally the Courts grants opportunity to lead evidence but in the instant case, taking into the dates, which have been passed and the fact that the complainant's

evidence was closed on 07.11.2012 and almost more than 2 and half years have been passed, therefore, taking into the various dates as has been passed, it do not impress the Court that the petitioner was bonafide to lead his defence in this case.

8. Taking into the facts of the case I am not impressed by the submission made by the petitioner. Consequently, the dates which lasted from 13.12.2012 to 07.01.2015, to be of dates which have passed can not be justified to hold presumption in favour of the petitioner.
9. In view of the forgoing, I do not find any merit in this case to invoke the jurisdiction under Section 482 of the Code of Criminal Procedure. In a consequence, the petition has no merit and it is dismissed accordingly.

Sd/-
(Goutam Bhaduri)
Judge