

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION NO. 630 of 2015**

Shiv Kumar Sonkar S/o Late Shri D.P. Sonkar, aged about 59 years, ASI,
Thana Kurud, Distt. Dhamrati, R/o Village Gadsivani, Thana Tumgaon Distt.
Mahasamund (C.G.)

---Applicant

Versus

State of Chhattisgarh Through A.C.B. Raipur.

----Non-applicant

For Applicant	:	Mr. Vivek Sharma, Advocate
For Non-applicant	:	Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****12/08/2015**

1. Heard on the question of admission.
2. Admit.
3. Issue notice.
4. Mr. Anupam Dubey, Dy. Govt. Advocate accepts notice on behalf of the State/non-applicant.
5. With the consent of the learned counsel for the parties, criminal revision is heard finally.
6. By the impugned order dated 07/07/2015, the Special Judge under Prevention of Corruption Act, Dhamtari (C.G.) rejected an application under Section 309 of Cr.P.C. filed by the applicant holding that five opportunities were granted to the applicant to cross-examine the prosecution witness Yogesh Chandrakar.

7. Learned counsel appearing for the applicant would submit that on the last date of hearing i.e. 07/07/2015, applicant's counsel Mr. J.P. Sharma from Durg could not appear on account of his illness, and therefore, an opportunity be granted to cross-examine the prosecution witness Yogesh Chandrakar otherwise is likely to effect his legal right.

8. On the other hand, learned counsel appearing for the State/non-applicant would submit that five opportunities were granted right from 15/07/2013, but the applicant did not avail the opportunities so granted.

9. I have heard learned counsel appearing for the parties.

10. The fact remains that though earlier four opportunities were granted by the Special Judge and sufficient reasons were assigned by the applicant and the Court finding those ground acceptable, granted those adjournments. Thereafter applicant filed an application for adjournment on 07/07/2015 stating that his counsel Mr. J.P. Sharma who comes from Durg is unwell, his application for adjournment could not be rejected merely because earlier four adjournments were granted to the applicant.

11. Taking into consideration the facts and circumstances of the case and further taking into account the fact that Mr. J.P. Sharma, counsel engaged by the applicant to conduct his case pending under the Prevention of Corruption Act is unwell on 07/07/2015, in the considered opinion of this Court that applicant has shown sufficient cause for not cross-examining the prosecution witness Yogesh Chandrakar and trial Court committed an illegality in rejecting adjournment, it is hereby set-aside subject to cost of Rs.2,000/- payable to the prosecution witness Yogesh Chandrakar on the next date when he appears before the Special Judge. The Special Judge is directed to summon PW-1 Yogesh Chandrakar and on that day the applicant

will make payment of cost of Rs.2,000/- and to cross-examine the said witness Yogesh Chandrakar. If the applicant fails to cross-examine on the next date of hearing given by the trial Court, his right to cross examine will stand closed.

12. With the aforesaid observation, criminal revision stands finally disposed off.

Sd/-
(Sanjay K. Agrawal)
JUDGE

Tiwari