

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.668 of 2015**

Man Mohan Das Mahanand, S/o Late Devidas Mahanand, aged about 53 years, working as a Assistant Grade-II, Office of Block Development Education Officer, Bilaigarh, District Raipur, at present District Balodabazar-Bhatapara, R/o Village Pouni, Post Office, Police Station & Tahsil-Bilaigarh, District Balodabazar-Bhatapara.

---- Applicant**Versus**

State of Chhattisgarh through the District Magistrate, Balodabazar-Bhatapara, District Balodabazar-Bhatapara(C.G.)

---- Non-applicant

For Applicant	:	Shri Shivendu Pandya, Advocate.
For Non-applicant	:	Shri Om Prakash Sahu, Government Advocate for the State.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/08/2015**

- (1) Heard on the question of admission.
- (2) Admit.
- (3) Issue notice.
- (4) Shri Om Prakash Sahu, Government 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 21.07.2015, the applicant's

application under Section 309 of Cr.P.C. has been rejected by the Special Judge (A.C.B.), Balodabazar, District Balodabazar-Bhatapara.

(7) Learned counsel appearing for the applicant submits that on the date of hearing on 21.07.2015, applicant's counsel Shri Sanjayendu Pandya, aged about 58 years, from Raipur could not appear before the trial Court on account of his illness and therefore, an opportunity be granted to cross-examine the prosecution witness Shri Ghanshyam Khare as case relates to prosecution of the applicant under the provisions of the Prevention of Corruption Act.

(8) On the other hand, learned State counsel would oppose the criminal revision.

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

(10) The fact remains that the applicant's counsel Shri Sanjayendu Pandya from Raipur could not appear before the trial Court who became ill on the said date and therefore, he could not represent the applicant and consequently applicant's witness Ghanshyam Khare could not be cross-examined and thus, the applicant filed an application for adjournment on 21.07.2015 stating that his counsel Shri Sanjayendu Pandya who comes from Raipur is unwell. Sufficient reason was assigned by the applicant, as such the applicant cannot be blamed for absence of his counsel for valid reason.

(11) Taking into consideration the facts and circumstances of the case and further taking into account the fact that Shri Sanjayendu Pandya, counsel engaged by the applicant to conduct his case pending under the provisions of the Prevention of Corruption Act,

became unwell on 21.07.2015, in the considered opinion of this Court that applicant has shown sufficient cause for not cross-examining the prosecution witness Ghanshyam Khare on the said date and the trial Court committed an illegality in rejecting the application for adjournment. The order dated 21.07.2015 passed by the Special Judge (A.C.B.), Balodabazar in Special Case No.02/2013 is hereby set-aside subject to cost of Rs.1,000/- payable to prosecution witness Ghanshyam Khare on the next date when he appears before the Special Judge. The Special Judge is directed to summon Ghanshyam Khare and on date of hearing, the applicant will make payment of cost of Rs.1000/- and shall cross-examine the said witness Ghanshyam Khare on 10.09.2015 or any other date fixed by the trial Court. If the applicant fails to cross-examine on the next date of hearing/on a date 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

L/-