

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 830 of 2015**

Atul Bagga, S/o. Shri Harbansh Lal Bagga, Aged about 30 years, R/o. Ward No.08, Bagbahra, Thana- Bagbahra, Civil & Revenue District Mahasamund (C.G.).

---- **Petitioner****Versus**

State of Chhattisgarh, Through the District Magistrate, Mahasamund, District Mahasamund (C.G.).

---- **Respondent**

For Petitioner : Mr. Sunil Sahu, Advocate.

For Respondent/State : Ms. Farah Minhaj, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****17/09/2015**

1. Heard on admission.
2. This is a petition under Section 482 of Cr.P.C. against the order dated 20.08.2015 passed by the learned Session Judge, Mahasamund, in Criminal Revision No.H-15/2015. By such order, the order dated 10.03.2015 passed by the C.J.M. Mahasamund in Criminal Case No.416/2012 has been affirmed whereby the opportunity to lead evidence of the defence was closed that of the petitioner.
3. Learned counsel for the petitioner submits that the petitioner alongwith other two persons are being tried under Section 420, 467, 468, 471, 120-B read with Section 34 of IPC before the J.M.F.C. He further submits that without application of facts the orders have been passed and the opportunity to lead evidence of defence witness should have been provided to the petitioner. He

would submit that on 23.02.2015 the opportunity to produce the handwriting expert that of the State was closed and thereafter even the defence witness has been turned down by the Court. Therefore, he may be given opportunity to produce the witness.

4. Per contra, learned State counsel opposes the argument advanced by the learned counsel for the petitioner.
5. I have heard learned counsel appearing for the parties, perused the order and the documents placed before this Court.
6. Reading of the order would show that on 30.10.2010 the statement of the accused was recorded and thereafter the case was fixed for defence witness and five chances were provided to the petitioner to produce the defence witness and on 08.04.2011 right to produce witness was closed. Subsequently, on 05.05.2011 when the case was fixed for final argument, another application under Section 311 of Cr.P.C. was filed and prayer was made to produce the defence witness and again on 08.09.2014 the case was fixed for recording the statement of the accused petitioner, but the Court found that it would not serve any purpose and no new facts have come. Consequently, the statement of the accused was not required to be recorded and the petitioner also did not asked for time to lead any further evidence in defence. On 23.02.2015 since the expert evidence was not produced before the Court by the prosecution that right of the prosecution was also closed. The order further reflects that on 15.11.2010 seven opportunities were given to produce the defence witness and on 05.01.2015 the petitioner contended that he do not want to examine further evidence.
7. Perusal of the order would show that the case was filed on 03.02.2006 and still it is pending. Therefore, considering the facts and circumstances of the case and the time and period which has passed and specially the fact that the petitioner was given enough opportunity to produce evidence, the order of the

Court below rejecting the further prayer to produce defence witness cannot be faulted with.

8. In view of foregoing, I am not inclined to invoke the extra ordinary jurisdiction vested in this Court under Section 482 of Cr.P.C. Accordingly, the petition has no merit and is dismissed at the motion stage itself.

Sd/-
(Goutam Bhaduri)
JUDGE

Ashok