

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Revision No.804 of 2015

Kamta Prasad Sahu @ K.P. Sahu, S/o Shri Nirbhay Ram Sahu,
aged about 50 years, R/o Behind Kali Mandir, Bastar Road,
Sorid Nagar, Dhamtari, Distt. Dhamtari (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through A.C.B., Raipur (C.G.)

---- Non-applicant

For Applicant: Mr. Vivek Sharma, Advocate.

For Non-applicant/State: Mr. O.P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

28/09/2015

1. Heard on the question of admission.
2. The revision is admitted for hearing.
3. Issue notice to the non-applicant.
4. Mr. O.P. Sahu, learned Government Advocate, accepts notice on behalf of the State/non-applicant.
5. With the consent of both the parties, the revision is heard finally.
6. By order dated 31-8-2015 passed in Special Case No.1/2010, the Special Judge under the Prevention of Corruption Act, Dhamtari, has rejected the application filed by the applicant under Section 309 of the CrPC holding that two opportunities have already been granted to the applicant to cross-examine the Investigating Officer S.S. Bhagat.

7. Fact remains that earlier, two opportunities were granted to the applicant finding sufficient reasons. Therefore, merely on the ground that two opportunities have been granted earlier, adjournment on 31-8-2015 could not have been refused especially when the applicant's counsel Mr. J.P. Sharma who comes from Durg became unwell on 31-8-2015 and could not appear before the Court for cross-examination.
8. Taking into consideration the facts and circumstances of the case, further taking into account the illness of Mr. J.P. Sharma, Advocate, engaged by the applicant to conduct his case who became unwell on 31-8-2015 and could not cross-examine, and that sufficient reason has been shown for non-availability of counsel for the applicant on 31-8-2015, the impugned order to the extent of rejecting adjournment for cross-examination of Investigating Officer S.S. Bhagat, is set aside. The Special Judge shall summon Investigating Officer S.S. Bhagat for recording his evidence on 7-10-2015 and for his cross-examination by the applicant, and on that day, the applicant shall make payment of Rs.1,000/- to the said witness. If the applicant fails to cross-examine the said witness on the next date of hearing before the trial Court, the right to cross-examine shall automatically stand closed.
9. With the aforesaid observation, the revision stands disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge