

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1105 of 2015**

Ashish Sharma S/o Shatrughan Sharma Aged About 28 Years Occupation
:-Secretary Gram Panchayat Surkhi, Bhatapara, District - Balod-Bazar, R/o
Village - Ulva, P.S. & Tahsil - Abhanpur, District - Raipur, Chhattisgarh

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

State Of Chhattisgarh Through : S. H. O. :- Anti Corruption Bureau Raipur,
District - Raipur, Chhattisgarh

---- **Respondent**

For Petitioner	: Mr. Hemant Gupta, Adv.
For Respondent/State	: Ms. M. Asha, PL.

Order On Board**13/04/2016**

1. Heard the matter finally at motion stage itself.
2. Facts in brief required for adjudication of the instant criminal revision are that the applicant is facing criminal trial before the Special Judge, Prevention of Corruption Act/1st Additional Sessions Judge, Baloda Bazar where the Special Sessions Trial No. 4/15 under the relevant provisions of Prevention of Corruption Act, 1988 (in brevity 'Act of 1988') is pending. The applicant had filed an application under Section 91 of the Code of Criminal Procedure, 1973 (in Brevity 'Code') for calling the proposal register of village meeting seized by the Investigating Officer and not annexed along with the charge sheet. There is every possibility that said register may be destroyed hence it is prayed that the said register be directed to be produced. The court below after hearing said application observed that the documents those relied by the prosecution are filed along with the charge sheet and since the applicant/accused is praying for calling of the documents in his defence which are the documents of the village panchayat, he may obtain the copy and may submit at the time of his defence. Therefore, the trial Court rejected the application. Against said order, the applicant has preferred instant criminal revision and prayed that the court below was required to allow the said application, refusal of it amounts to unfair trial. The order passed by the trial Court is not justified. Documents are very relevant and useful to decide the matter. As per law, there is no legal bar in calling those documents. Hence it is prayed that since the documents are required for proper adjudication of the matter, the order passed by the trial Court dated 6-10-2015 be set aside and the trial court be directed to call for the

said record.

3. Learned counsel for the applicant duly supported the grounds taken in the instant criminal revision and submitted that the relief as prayed be granted to the applicant.
4. By invoking jurisdiction under Section 397 read with Section 401 of the Code, this revision court has to examine whether the order passed by the trial Court is illegal, improper and incorrect.
5. From perusal of the impugned order dated 6-10-2015 and also the application filed under Section 91 of the Code, it appears that in para 3 it is submitted that the Investigating Officer had seized the said register of proposal and has not annexed the same along with charge sheet. In the further repeat para 3 it is submitted that for the best statement, register of said village panchayat be called for and annexed along with the case failing which the said register may be destroyed and the accused may be deprived of his best defence. On perusal of the entire application, the fact as to where the said register is and from whose custody the said register was seized is not mentioned in the said application. It is not mentioned as to from where said register is prayed to be produced. Also as per procedural law, if any register has been seized by the Investigating Officer, as per law the detail of the person from whom the register is seized has to be given. Copy of the seizure memo as the document showing the fact regarding seizure of same article ought to have been filed. If the said register was seized by the Investigating Officer, the applicant when enter in his defence in the matter under Section 233 of the Code and other procedural law may examine the said witness and prove the fact regarding seizure of said register by the Investigating Officer and thereafter he may pray the court to direct the Investigating Officer to appear along with such register in his defence and thereafter he may examine the said Investigating Officer also for his defence as the case may be and to prove those facts he wanted to prove. As the court below has not rejected the prayer of the applicant on its merit rather postponed the said prayer to be looked into at the time of defence under Section 233 of the Code. In the considered view of this Court, looking to the said application under Section 91 of the Code and the impugned order, I do not see any illegality, impropriety or incorrectness in the impugned order dated 6-10-2010 and the same does not call for any interference. The same is liable to be dismissed.
6. Consequently instant criminal revision is dismissed as not maintainable. However the applicant may raise and may call for any document/witness to

prove his case when he enter into his defence under the relevant provisions of Section 233 of the Code and procedural laws. If the applicant prays for for call for any document/witness including the proceeding dated 31-1-2013 the same be disposed of on its own merit in accordance with law without being influenced by the application under Section 91 of the Code and the order dated 6-10-2015 .

7. With this observation, the instant revision is dismissed as not maintainable.

Sd/-
(Chandra Bhushan Bajpai)
Judge