

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 418 of 2016**

Shivnandan Kumar Sharma, s/o Kapoor Prasad Sharma, aged about 61 years, R/o Daragaon, Thana Daundilohara, District Durg.

---- Applicant

Versus

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

---- Respondent

For the Applicant : Shri Rajesh Kumar Tiwari, Advocate.
 For the Respondent /State : Ms. M. Asha, Panel Lawyer, on advance copy.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order on Board****10/05/2016**

1. Heard.
2. Issue notice to the Respondent.
3. Ms. M. Asha, Panel Lawyer accepts notice on behalf of the State/ Respondent.
4. At the outset, Learned counsel for the Applicant submits that as Learned counsel appearing for the Applicant in the Court below was not in a position to appear and defend the Applicant on 11.3.2016 and 30.3.2016 on account of sad demise in the family, he could not examine the defence witnesses. Looking to the personal grounds of Counsel for the defence, purely on mercy ground, the Applicant may be granted an opportunity to examine defence witness - Smt. Usha Dawalkar, Assistant Grade-III, District Panchayat, Raipur. The Applicant will examine the said witness on the date so fixed by the Court below as per convenience of the Court.

5. The instant criminal revision, the impugned order dated 30.3.2016 and other annexed documents are perused.

6. On due consideration and looking to the personal grounds as submitted on behalf of the Applicant, this Court is of the view that one more opportunity should be afforded to the Applicant for examination of the aforementioned defence witness to defend him as required.

7. Consequently, the order dated 30.3.2016, so far as it relates to closure of opportunity of the Applicant for examination of defence witness – Smt. Usha Dawalkar is hereby quashed. The trial Court is directed to grant an opportunity to the Applicant to examine the said defence witness on a date to be fixed by the trial Court. If the Applicant fails to examine the said defence witness on the date to be fixed by the trial Court, no further opportunity shall be afforded to the Applicant for the same. The trial Court is further directed to impose upon the Applicant adjournment cost and cost of the witness for appearance under the relevant provisions of Section 309 sub-section (2) of the Code of Criminal Procedure, 1973 (for short 'the Code'). The Applicant shall deposit the said imposed cost in terms of money in the trial Court before examination of the aforementioned defence witness.

8. The Applicant may file a copy of this order before the Court below for compliance.

9. Registrar (Judicial) is directed to transmit a copy of this order to the Court below immediately through usual and fax modes for compliance.

10. With the aforesaid observation, the petition is disposed of.

Sd/-

Chandra Bhushan Bajpai
Judge