

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR). No. 106 of 2017

Pradeep Kumar Nema, S/o. Late Shri Shyamlal Nema, Aged About 61 Years,
District Marketing Officer, Markfed Complex Quarter No. 30, Dhamdha Road,
Durg 491001, Police Station - Mohan Nagar, Durg Tah. & District Durg
(Chhattisgarh)

---- Petitioner

Versus

State Of Chhattisgarh, Through : Additional Inspector General Of Police,
Ante- Corruption Bureau, Chhattisgarh, Raipur (Chhattisgarh)

-----Respondent

For Petitioner : Mr. V.G. Tamaskar, Advocate

For Respondent/State : Mr. Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/08/2017

Heard finally.

1. This petition has been brought under Article 226 of the Constitution of India with prayer to quash the impugned order dated 15.03.2017, passed in Special Case No.2/2015, against the petitioner and for issuance of appropriate writ in favour of the petitioner.
2. It is submitted by the counsel for the petitioner that petitioner is facing trial for offence under Section 7, 13 (1) and 13(2) of the Prevention of Corruption Act, in which charges have been framed by the trial Court and the case is at the stage of examination of the prosecution witnesses.

3. Petitioner moved an application under Section 91 of the Cr.P.C. with prayer to summon register in possession of Notary, Stamp Vendor along with registration papers of vehicles, daily diary and concerned logbook of the vehicle of the department and case diary and the receipt register of ACB, Jagdalpur. The trial Court has by an order dated 15.03.2017, rejected this application mentioning the reason that documents and the registers proposed to be summoned relates to the defence of the petitioner who can call for same at the stage of defence evidence. Hence this petition.
4. It is submitted by the counsel for the petitioner that order passed by the trial Court is arbitrary and against the provisions of law. Section 91 of Cr.P.C. empowers the trial Court to summon for the documents, which are necessary or desirable for the purpose of any investigation, enquiry or trial. It is for the fair trial of the case, petitioner has prayed for summoning of these documents, hence prayed that relief be granted as prayed for.
5. Counsel for the State has opposed the grounds raised in the petition and the submission made. It is submitted that documents proposed to be summoned by the petitioner are not necessary or desirable, hence not relevant for the purpose of trial and adjudication of the case against the petitioner. If the petitioner wants to raise a defence on the basis of these documents, he shall have an opportunity to call the witnesses along with the documents mentioned to depose in defence evidence as per requirement.
6. I have heard the learned counsel for the parties and perused the documents placed on record.

7. As it appears from the petition and the document submitted along with the petition, that petitioner is facing charge of receiving illegal gratification. The proposed register, diaries and documents are authored by the concerned Notary, Stamp Vendor, In-charge of the vehicle and the investigating officer. Even if, documents are summoned, no use can be made of these documents without the author of these documents being examined before the Court, hence the reason assigned by the trial Court that the petitioner shall have an opportunity to call the concerned authors of register/documents for the purpose of deposing for defence is proper, looking to which this does not appear to be a case having any substance, hence this petition is dismissed at the motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram