

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 67 of 2013**

Tinku Singh S/o Vijay Singh, aged about 26 years, R/o Quarter B- Type, Staff Colony, Charcha, P.S. Charcha, Distt. Korea, C.G.

---- Applicant**Versus**

State of Chhattisgarh through – Station House Officer, Police Station Charcha, District Korea, C.G.

---- Respondent

For Applicant	:	Shri Pritam Tiwari, Advocate
For Respondent/State	:	Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****06/01/2017**

The present case has been preferred assailing the order dated 04.01.2013 passed by the Special Judge, NDPS Act, Korea (Baikunthpur) in Special Session Case No. 9/2012.

2. The case of the prosecution is that the applicant in the present case is an accused in the aforesaid case for the offence under Section 17 (a) (e), 27 Drugs and Cosmetic Act and Section 22 of NDPS Act. In the instant case the date of incident is 02.10.2012 and the charge sheet was filed on 08.11.2012. During the course of trial, two applications have been made by the prosecution. First application is for grant of permission to get the FSL report so far as the seized articles from the applicant and the other accused person are concerned and the other application is for returning of the same

for re-testing. The said applications were decided on 04.01.2013 whereby the Court below allowed both the applications.

3. It is this order which is assailed by the applicant in the present revision petition.

4. Counsel for the applicant challenges the impugned order on the ground that the order passed by the Court below is per se illegal and is detrimental to the interest of the accused persons. According to him, if the prosecution has not been able to collect the samples and get the chemical analysis report, the prosecution cannot subsequently now be granted the benefit of improving upon the case which may ultimately prove and go against the interest of the accused persons. He submits that the prosecution has subsequently moved these applications itself gives additional indication of it to be an after thought and cooked up story at the hands of the prosecution giving rise to a great element of doubt and suspicion on the prosecution story. Hence, prayed for rejection of the impugned order.

5. However, a perusal of the record would show that the Court below has allowed the application only to the extent that the prosecution should get the samples which were earlier collected to be sent for chemical analysis and obtain the FSL report. Thus, at this juncture the applicant should not have any grievance with the said order of the Court below in as much as it has only ordered for chemical analysis of the samples which were collected at the first instance. In case the reports are made available by the prosecution and produced as an evidence, the applicant also would get all the

chances of cross-examining the prosecution witnesses both in respect of the contents of the report as also the veracity of the chemical analysis done. All that the Court below has ordered is for sending the samples which were earlier collected to be subjected to chemical examination and for calling of a report in this regard. Both the circumstances would not in any manner adversely affect the interest of the applicant as these are the procedures which otherwise are also conducted and done in the course of investigation.

6. Thus, the revision petition being devoid of merit deserves to be and is accordingly dismissed.

7. Registry is directed to send back the record of this case forthwith to the Court below so that it may proceed with the matter and conclude the trial at the earliest.

Sd/-

(P. Sam Koshy)
JUDGE