

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.158 of 2017**

Yagya Prasad Nayak S/o B.P. Nayak, Aged about 38 years,
Sub-Engineer, Nagar Panchayat, Piparia, District Kabirdham
(CG) R/o Mukht Nagar, Borsi Road, Durg (CG) (wrongly
mentioned as Padmapur Durg in the impugned order)

---- Applicant**Versus**

State of Chhattisgarh Through the Station House Officer, PS
Anti Corruption Bureau, Raipur (CG)

---- Non-applicant

For Applicant	:	Mr.Varun Sharma, Advocate
For Non-applicant	:	Mr.Ashish Surana, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****08/02/2017**

1. By the order impugned, learned Special Judge has rejected the application filed by the applicant under Section 311 of the CrPC and refused to recall complainant Shri Ravi Singh Rajput.
2. Learned counsel for the applicant would submit that the complainant could not be cross-examined effectively, therefore, the aforesaid witnesses may be recalled for examination.
3. Investigating officer S.K.Sen and Chief Municipal Officer O.P.Thakur could not have been examined as Senior Counsel was unwell.

4. A careful perusal of statement of Ravi Singh Rajput (PW-5) would show that on 7.1.2017, firstly examination-in-chief was recorded and he was declared hostile. No objection was taken when leading question was asked by the prosecution. Thereafter, when cross-examination was required to be done by the applicant's counsel, objection was raised that Senior Counsel is unwell and at the request of the applicant case was adjourned for 9.1.2017, on that day, Shri Upendra Singh, on instructions, has cross-examined the complainant fully and no objection was raised, therefore, the Special Judge is absolutely justified in not granting permission to re-examine Ravi Singh Rajput (PW-5). However, the investigating officer and Chief Municipal Officer are important witnesses and examination could not be done on behalf of the applicant as his counsel was unwell, therefore, in the interest of justice, on payment of cost of ₹ 5000/- to the Chief Municipal Officer and cost of ₹ 5000/- to the Investigating officer, it is directed that Chief Municipal Officer and Investigating Officer both will be examined on 27.2.2017. As informed by learned counsel for the applicant, next date of hearing is on 13.2.2017. Let the summons be issued to the Chief Municipal Officer and the Investigating Officer for their cross-examination on 27.2.2017. Cost will be paid to them on 27.2.2017. If the cost is not paid on their appearance, right to cross-examine

will stand closed.

5. With the aforesaid observation, criminal revision stands disposed of.
6. Certified copy by 10.2.2017.

Sd/-
(Sanjay K.Agrawal)
Judge

B/-