

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 357 of 2017

- Shyam Lal Anant S/o Shri Mohan Lal Anant, Aged About 58 Years
R/o Quarter No. 09, M 459 Ompur Colony Rajgamar, Police Outpost
Rajgamar, Police Station Kotwali Korba, Civil & Revenue District
Korba, Chhattisgarh. **--- Appellant**

Versus

- State of Chhattisgarh through The District Magistrate Korba, District
Korba, Chhattisgarh. **--- Respondent**

For the applicant	:	Mr. Sumeet Shrivastava, Advocate
For the State	:	Mr. S.R.J. Jaiswal, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06.04.2017

1. This petition is against the order dated 25.03.2017 wherein an application filed by the applicant accused to produce the CD which is alleged to have been recorded during trap and sought to be called for was dismissed.
2. A perusal of the order of the court below dated 25.03.2017 would show that it records that the digital voice recorded on 08.02.2014 during such raid was in two parts, the first was recorded before the raid was conducted and the second was recorded at the time of actual transaction of money which took place. The order reflects the statement made by P.W.5 S.K. Lall. The Court also examined the statement of P.W.5 which shows that during the actual transaction of money and before the raid was being conducted by the ACB, the voice was recorded and CD was prepared which was produced. The other part was during the actual transaction of money and during the period of conversation which could not be recorded. In the statement also he has stated that during trap, he was not able to say whether the voice cassette recorder was working or not. However, the voice

recorder ***Panchnama*** was filed as Ex. P.36 and the order records that the evidence shows that the voice recorder could not be started and as such the statement during the raid could not be recorded. The statement of the complainant is not before this Court. Only the statement of P.W.5 is filed. Therefore, in any case, even if the statement was not recorded and the transaction has not been proved by the prosecution, then in such a case, the prosecution cannot be forced to prepare the document. In absence of statement of the complainant which reflected in the order that he failed to start the voice recorder during transaction, it cannot be inferred otherwise that some conversation was actually recorded. On reading of the order, the factual aspect as has been reflected would show that no illegality has been committed by the courts below warranting interference by this Court. Accordingly, the revision has no merit and is dismissed at the motion stage.

**Sd/-
GOUTAM BHADURI
JUDGE**