

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 853 of 2017

Ashok Kumar Dwivedi S/o Chunnulal Dwivedi, Aged About 64 Years R/o M.P.E.B. Darri District Bilaspur Present District Korba, Chhattisgarh. Present Resident Of New Colony Chatarpur, District Chatarpur, Madhya Pradesh.

---- Applicant

Versus

State Of Chhattisgarh Through Station In Charge Police Station Darri, District Korba, Chhattisgarh.

---- Respondent

For applicant - Shri Rajeev Bharat, Advocate.
For Respondent/State –Shri Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

20/09/2017

1. Heard.
2. Instant petition is against the order dated 23.08.2017 wherein prayer made by the appellant/accused to admit certain documents were refused.
3. Perusal of the order would show that the applicant is accused in the case which is pending against him wherein after closure of the prosecution case on 09.12.2016, case was fixed for evidence of the defence on 07.03.2017. Applicant was examined as defence witness and was further cross-examined on 07.04.2017. Subsequently, on 27.05.2017 an application along with certain documents were filed which have been disallowed. Hence, this revision.
4. During the course of argument, learned counsel for the applicant submits that if documents are taken on record, the applicant shall

confine his defence only to examine himself. Further to prove document it would be necessary to prove innocence of the applicant. Consequently, application may be allowed and no prejudice will be caused rather it will advance cause of justice.

5. Perused the order. It appears that still case is in the stages of defence. Certain documents which were filed by the applicant/accused were dismissed along with the fact and his prayer to examine himself to prove documents was also denied. Perusal of the list of documents which is filed shows that certain account sheet and the payment and the explanation have been placed. Since case is under the Prevention of Corruption Act wherein disproportionate property has been alleged to have been in the possession of the applicant and the applicant at the last stage of defence want to place on record certain documents to show proportionality of property.

6. In view of this, prima facie it appears that if the documents are admitted in the record and the applicant is allowed to produce his defence, then in such case no prejudice will be caused to the prosecution in view of principle laid down in case of **Raja Ram Prasad Yadav Vs. State of Bihar** reported in **2013 AIR SC Weekly 4179**. Since case is under the Prevention of Corruption Act, therefore one last opportunity is provided to the applicant to put forth his case so that fairness in the hearing subsist considering stage of this case since it is already in the defence stage no prejudice would be caused to either one. Therefore, order dated 23.08.2017 is set aside. Documents placed by the applicant are admitted to be taken on record and further applicant is given one more opportunity to prove his defence. It is made clear that applicant shall not be allowed to put forth any other evidence

except that of the applicant to prove such documents.

7. With such observation, revision is allowed to the extent indicated above.

Sd/-

(Goutam Bhaduri)

JUDGE