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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1164 of 2017

1. Chiman Lal Sahu, S/o Premchand Sahu, aged about 48 years, Junior Engineer, Electricity Center, Thankhamhariya, District Durg, Chhattisgarh, Present Address: Assistant Engineer, TSG-9, Kanker, District North Bastar Kanker, Chhattisgarh
2. Shri Satyadhar Bandhe, S/o Shri Chaitram Bandhe, aged about 30 years, Designation Assistant Grade – III (Contract) Electricity Distributor Center, Thankhamhariya, District Durg, Chhattisgarh Permanent Address: Baroda, Thana Mana Camp, Raipur, Chhattisgarh, At present Bemetara Division Office

---- Applicants

versus

State of Chhattisgarh through the Superintendent of Police, Anti Corruption Bureau, Raipur, Chhattisgarh

--- Respondent

For Applicants	:	Shri Tarun Dansena, Advocate
For Respondent	:	Shri U.K.S. Chandel, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

2.4.2018

1. With the consent of Learned Counsel appearing for the parties, the revision is heard and decided finally.
2. This revision has been preferred against the order dated 6.11.2017 passed by the Special Judge under the Prevention of Corruption Act, Bemetara in Special Case No.7 of 2013, by which cost of Rs.5,000/- has been imposed upon the Applicants on the ground that they have not taken the evidence of present witness Dr. Vikram Pathak.
3. Facts of the case, in brief, are that the Applicants are facing trial before the Trial Court for an allegation relating to the Prevention of Corruption Act. On 21.7.2017, charges were framed. On 6.11.2017, prosecution witness Ghanshyam was cross-examined. Thereafter, at 7:05 p.m., on completion of cross-examination of this

witness, when Defence Counsel showed his unavailability to cross another present panch witness Dr. Vikram Pathak then the Trial Court imposed a cost of Rs.5,000/- upon the Applicants/accused. Hence, this revision.

4. Learned Counsel appearing for the Applicants submits that the Defence Counsel had gone from Bilaspur to the Trial Court. Till 7:05 p.m., he cooperated and cross-examined another witness Ghanshyam. After 7:05 p.m., he was not bound to cross-examine other present witness Dr. Vikram Pathak. In spite of that, he was compelled and when he showed his unavailability, the cost of Rs.5,000/- was imposed upon the Applicants, which is arbitrary.
5. Learned Counsel appearing for the State/Respondent supports the impugned order.
6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
7. From perusal of the material available, it reveals that on 6.11.2017, witness Dr. Vikram Pathak appeared in the Court at 12:10 p.m. Cross-examination of other present witness Ghanshyam was started by the Trial Court first and his cross-examination was completed at 7:05 p.m. After the Court hours, the Defence Counsel could not be compelled to record statement of the witness. Till 7:05 p.m., the Defence Counsel had cross-examined other witness. Thereafter, for recording of the statement of other present witness, he should not have been compelled. Therefore, the order passed by the Trial Court regarding imposition of cost upon the Applicants deserves to be set aside.

8. In the result, the revision is allowed. The impugned order dated 6.11.2017, so far as it relates to imposition of the cost of Rs.5,000/- upon the Applicants, is set aside.

Sd/-

(Arvind Singh Chandel)
Judge