

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 130 of 2018

Shri P.K. Rai S/o Nalini Rai, Aged About 65 Years Railway Contractor, R/o Torwa Gurunanak Chowk, Wasaan Block, Near Gumber Petrol Pump, P.S. Torwa, Tahsil And District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

M/s Vishesh Traders Through Its Proprietor Pwan Ajmani, S/o Late Rooplal Ajmani, Aged About 54 Years, R/o Jagmal Chowk, P.S. Kotwali, Tahsil And District Bilaspur (Chhattisgarh)

-- Respondent

For petitioner – Shri Ravi Ranjan Sinha, Advocate.
For respondent – Shri Sudhir Kumar Bajpai, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/02/2018

Heard.

1. Instant petition is against the order dated 22/01/2018 whereby an application under Order 18 Rule 17 of CPC was rejected.
2. Learned counsel for the petitioner submits that in civil suit evidence was adduced and one witness namely Indrajeet Yadav was examined before the court on behalf of the defendant/petitioner, however subsequently witness has filed an affidavit before the court that the witness was threatened before he adduced his evidence by the plaintiff and as such under the threat and the influence statement was given that of the plaintiff. Learned counsel therefore submits that liberty may be granted that witness may be allowed to be re-examined before the court as it will advance cause of justice.
3. Per contra, learned counsel for the respondent vehemently opposes the same and submits that neither any reason have been assigned nor any objection or report was made to the police that

defendant's witness was threatened and therefore only on the vague allegation same cannot be allowed. He placed his reliance in case of **T. Ramachandra Murthy v. K. Rama Murthy and Ors.** reported in **AIR 1980 Andhra Pradesh 265**. He submits that required party cannot interfere in proceeding of Order 18 Rule 17 of CPC and power is vested with the court to recall the witness.

4. I have heard learned counsel for the parties.

5. Perused the order. Along with the petition copy of an application under Order 18 Rule 17 of CPC has been placed and affidavit of Indrajeet Yadav and hand written letter of Indrajeet Yadav is placed wherein reading of the affidavit and the hand written submission would purport that it is stated that on 8/12/2017 he was threatened and allured by Pawan Ajmani to give wrong statement before the court and under the threat he has given such statement. It would further purport that said submission may be placed before the court if required. On the basis of the affidavit and the written submission when application was filed before the court same was dismissed by the court. Perusal of the affidavit and the submission raises a serious issue as to whether the witness was pressurized, threatened or allured. In such circumstances, in the opinion of this court truth must prevail at any cost and recalling of the witness will not prejudice either of the parties rather it will advance cause of justice.

6. Consequently, considering the nature of the allegation made that the witness was threatened, pressurized and allured, instant petition is allowed. Consequently, application under Order 18 Rule 17 of CPC stands allowed to examine Indrajeet Yadav S/o Babulal Yadav who has sworn affidavit and has made written submission.

Certified copy today.

Sd/-

(Goutam Bhaduri)
JUDGE

