

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 95 of 2018**

- Vinod Kumar Tamboli S/o Late Samelal @ Kishunlal Tamboli, Aged About 59 Years R/o Tifra Sitafar, Bhartiya Nagar, Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary Minsitry Of Home, Secretariat, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Anti Corruption Bureau, Through The Superintendent of Police, Near Raj Bhawan, Civil Lines, Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri B.P. Sharma, Advocate
For Respondent/State	:	Shri Ashish Shukla, Dy. AG for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****14/05/2018**

1. Heard.

2. The present petition is filed claiming following reliefs:-

A. A writ and/or an order in the nature of writ of mandamus do issue calling for the record pertaining to the petitioner's case from the Court below concerned for its kind perusal.

B. A writ and/or an order in the nature of writ of certiorari do issue quashing the entire charge sheet including the sanction granted by the State authorities as not submitted before the Court of law after following the procedure established by law or there is violation of provision of due process of law guaranteed under the fundamental rights under the Constitution of India.

C. A writ and/or an order/direction be issued directing the State authorities to withdraw their charge sheet from the Court and after following the procedure established by law i.e. inclusion of statements of witnesses pro-accused, if sanction is granted, then only submit charge sheet before the Court of law.

D. A writ and/or an order in the nature of writ of mandamus do issue commanding and directing the respondent authorities concerned to submit a supplementary charge sheet including the explanation offered and documents submitted by the petitioner as part of the charge sheet and thereafter directing the Court below to proceed in accordance with, in the facts and circumstances of the case to each of the petitioners.

E. Any other relief which this Hon'ble Court may deem fit in the facts & circumstances of case.

F. Cost of the petition may also be awarded.

3. Learned counsel for the petitioner submits that during the investigation, the statements of 19 witnesses were recorded, who have deposed in favour of the petitioner/accused. Learned counsel further submits that the witnesses have given statement in favour of the prosecution, therefore, the prosecution be directed to examine the same as a prosecution witness.
4. Per contra, learned State counsel opposes the same and submits that the trial is at the fag end and the prosecution cannot be forced to lead evidence of the witnesses if they do not want to examine someone. The accused can very well call the witnesses as a defense witness.
5. Considering the nature of relief at this stage of trial it is stated that only 4 witnesses remained to be examined and the charge-sheet was filed on 04.08.2017. The prosecution being is at fag end, the petitioner if want to examine the witnesses can very well call them as a defense witness and the prosecution cannot be compelled to examine the witnesses against their wish & will. The accused may call the witness left out by prosecution and facts may be deposed by them. Any observation at this stage would be premature, which may affect the trial.
6. With such observation, the petition stands disposed of.

SD/-
Goutam Bhaduri
Judge