

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1089 of 2018

Nohar Singh S/o Shivraj Singh Aged About 48 Years R/o Village
Pendalkuhi, P. S. Chilhati, Tehsil Ambagarh Chowki, District
Rajnandgaon Chhattisgarh

---- Petitioner

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Out Post Ambagarh Chowki, District Rajnandgaon

---- Respondent

For petitioner - Shri H.S. Ahluwalia, Advocate.
For Respondent/State – Smt. Madhunisha Singh, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

26/06/2018

Heard.

1. Instant petition is against the order dated 31/05/2018 whereby right to cross examine the IO namely D.P. Napit was closed by the court below on behalf of the petitioner and one of the other accused.
2. Learned counsel for the petitioner would submit that case is fixed for recording statement of the accused on 27/06/2018. Consequently, if IO remains unexamined it will have adverse effect against the party to the seizure of the fake currency notes wherein seizure witnesses have turned hostile. It is submitted that in absence of the cross examination irreparable injury would be caused and right of the petitioner would be completely defeated to get fair trial, therefore one opportunity may be given to the petitioner to cross examine the IO, D.P. Napit.
3. Perusal of the order dated 29/05/2018 would show that case was fixed for cross examination of IO, D.P. Napit and on 29/05/2018 IO, D.P. Napit did not appear for the reason there is reason of law and order situation and prayed for time. On 31/05/2018 when witness appeared

prayer was made on behalf of the accused/petitioner that senior counsel has gone for treatment and as such date may be given for 1/06/2018. Learned court below did not exceed to such request made and dismissed prayer to cross examine the witness on the ground that in M.Cr.C. No.5257 of 2018 in between Rajendra Tandon Vs. State of Chhattisgarh by an order dated 30/04/2018 High Court has ordered for conclusion of the trial within period of four weeks, therefore no further adjournment can be granted since case is to be decided till 9/06/2018.

4. Perused the order sheet. After perusal of the order sheet and the documents filed along with the petition it appears that cross examination of the IO would be relevant. If statement of the IO remains unrebutted by way of cross examination then it may lead to denial of fair trial to the accused which cannot be cured subsequently either in appellate stage and would give rise to multiplicity of the proceeding. Considering the same, order dated 31/05/2018 whereby right to cross examine the witness was denied is set aside. Learned State counsel is directed to keep present the IO, D.P. Napit in the next week before the court below and the petitioner shall be allowed to cross examine IO, D.P. Napit on that date. Thereafter, court may proceed to decide the case within further period of 30 days.

5. With such observation, the petition stands disposed of.

Certified copy today.

Sd/-

(Goutam Bhaduri)

JUDGE