

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.719 of 2018**

Avadhesh Kumar Sharma, S/o Shri Ram Shankar Sharma, aged about 54 years, C.E.O. Janpad Panchayat Shankargarh, Ambikapur, District Surguja, Chhattisgarh, real resident of Village Gogepur, Tahsil Tilhar, Police Station Jaitipur, District Shahjanhapur, U.P.

---- Applicant

versus

State of Chhattisgarh through E.O.W./A.C.B., Bilaspur, District Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri V.C. Ottalwar, Advocate
For Respondent/State	:	Shri Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

10.7.2018

1. The revision is listed for hearing on admission. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The revision has been preferred against the order dated 26.6.2018 passed by the Special Judge (under the Prevention of Corruption Act) (henceforth 'the PC Act'), Balrampur at Ramanujganj in Special Criminal Case No.1 of 2015, whereby the Special Judge has rejected the application under Section 317 of the Code of Criminal Procedure preferred by the Applicant.
3. Brief facts of the case are that a trial is going on against the Applicant for the offence punishable under Section 7 of the PC Act. On 26.6.2018, the matter was listed before the Trial Court for recording of statement of the Applicant under Section 313 of the Code of Criminal Procedure. An application under Section 317 of the Code of Criminal Procedure was moved by the Applicant

seeking condonation of his non-appearance, but the Trial Court rejected the application on the ground that the application was supported by a medical certificate issued by a private doctor not by a Government doctor. Hence, this revision.

4. Learned Counsel appearing for the Applicant submits that on the date of hearing, the Applicant was ill and was not in a position to appear before the Trial Court. Therefore, he moved an application under Section 317 of the Code of Criminal Procedure supported by a medical certificate issued by a private doctor. His application deserves to be allowed, but the Trial Court has rejected the same without assigning any sufficient reason.
5. Learned Counsel appearing for the State supports the impugned order.
6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
7. From a bare perusal of the impugned order and the other material available, it reveals that the application under Section 317 of the Code of Criminal Procedure, which was supported by a medical certificate issued by a private doctor, has been rejected only on the ground that it was not supported by any medical certificate issued by a Government doctor. The medical certificate annexed with the application is issued by a private practitioner Dr. Anil Gupta. In the said certificate, Dr. Gupta has advised the Applicant to take rest for 5 days. In the impugned order, the Trial Court has not assigned any reason why the medical certificate issued by the private doctor is not a genuine document and why a medical certificate issued by

a Government doctor is essential. I find that the impugned order is erroneous.

8. Resultantly, the revision is allowed. The impugned order dated 26.6.2018 is set aside. The Applicant is directed to appear before the Trial Court on the next date fixed by the Trial Court for hearing.

Sd/-
(Arvind Singh Chandel)
Judge