

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 226 of 2019**

- Prashant Kumar Biswal, S/o Shri Ramchandra Biswal Aged About 53 Years R/o Niladri Vihar, Chandrashekharapur, Bhuvneshwar Orissa

---- **Petitioner**

Versus

- Smt. Renu Agrawal W/o Shri Narsingh Lal Agrawal Aged About 48 Years R/o Flat No. B-404, Karshan Heritage, Daldal Sivni Road, Mowa Raipur Police Station Pandri District Raipur Chhattisgarh

---- **Respondent**

For Petitioner : Shri H.B. Agrawal, Sr. Adv. With Ms. Preeti Yadav,
Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

22/01/2019

1. Heard.
2. The present petition has been filed against the order dated 26.12.2018, whereby the right to lead the evidence of the petitioner in a complaint filed under Section 138 of the Negotiable Instruments Act, 1881, has been closed.
3. Learned counsel for the petitioner submits that the trial Court has disallowed the application on the ground that the petitioner has not provided the list of witnesses, however, the revisional Court in its order dated 26.12.2018 has ordered that the petitioner himself has failed to abide by the direction given by the Court, therefore, he is not entitled for any relief.
4. Perused the order. Perusal of the order would show that the complaint under Section 138 of the Act, 1881 was filed wherein charges were framed on

12.09.2017 under Section 138 of the Act, 1881 and the complainant adduced its evidence and closed its evidence on 25.01.2018. Thereafter, it was fixed for defense evidence on 08.02.2018. On 11.07.2018 the accused statement was recorded under Section 313 Cr.P.C. and on that date it was disclosed that the petitioner only wanted to examine himself and thereafter, the case was fixed for 02.08.2018. Thereafter, three dates passed i.e. 02.08.2018, 14.08.2018 and 07.09.2018 and on 07.09.2018 last chance was given again to the petitioner for evidence and date was of 25.09.2018. On 25.09.2018, the petitioner got himself examined, thereafter prayer was made that the Bank Manager of the Axis Bank, Chandrashekharpur Bhuneshwar may be called for evidence, despite the opposition by the complainant the same was allowed. The order would show that last chance was given on 26.10.2018 and direction was given that humdast notice should be issued for appearance which was to be served through the Superintendent of Police, Bhuvneshwar. The petitioner instead of getting serve the humdast through Superintendent of Police, Bhuvneshwar, of his own accord, sent it by registered post, eventually the witness did not appear on the date. Therefore, there appears that deliberate efforts were made for adjournment on some pretext or the other, which cannot be said to be bonafide. In all it appears that six dates were availed by the petitioner for his defence after closure of the case of the complainant up till 26.10.2018. Under the circumstances, considering the conduct of the petitioner, I am not inclined to interfere with the order.

5. The petition has no merit. It is accordingly dismissed.

Sd/-
Goutam Bhaduri
Judge