

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 900 of 2018**

- Rajesh Das Manikpuri S/o Khorbahara Das Manikpuri, aged about 40 years, R/o Bhanpuri, P.S. Khamtarai, District Raipur (C.G.)

----Petitioner**Versus**

- State of Chhattisgarh Through : District Magistrate, District Raipur (C.G.)

---- Respondent

For Petitioner	:	Shri N. Naha Roy, Adv.
For Respondent/State	:	Shri Anant Bajpayee, P.L.
For Objector	:	Shri Sumit Shrivastava, Adv.

Hon'ble Smt. Justice Rajani Dubey**ORAL ORDER****01/08/2019**

01. This revision is directed against the order dated 30.07.2018 and 06.08.2018 passed by the learned 4th Additional Sessions Judge to the Court of 1st Additional Sessions Judge, Raipur, in Sessions Trial No.34/2017, whereby the learned trial Court has rejected the application filed under Section 311 of Cr.P.C. by the applicant for additional defence witnesses.

02. Before the trial Court, the accused/applicant is facing trial for the offence under Section 302, charge sheet has been filed against the applicant on 30.07.2018 and the case was fixed for defence witnesses. On that very day, the accused/applicant filed the additional list of defence witnesses and prayed for issuance of summon. The learned trial Court rejected the prayer of the accused/applicant and fixed the case for final argument on the ground that the case had been fixing for defence witnesses since 28.04.2018 and after 7-8 opportunities, the accused/applicant filed the list with malafied intention. On 02.08.2018, the accused/applicant repeated the same application, which was also rejected by the trial Court on 06.08.2018. Hence, this revision.

03. Learned counsel for the accused/applicant submits that the defence witnesses are necessary for proper adjudication of the case. Both the orders passed by the learned trial Court are absolutely arbitrary and illegal amounting to denial of opportunity to defence oneself against the charge imposed and the same is not sustainable even for a moment. He further submits that there was no reason available under the law to reject the same or denying from being taken on record, thereby affecting the right of defense to a great extent, not permissible in law. He also submits that the learned trial Court ought to have considered the fact that under no provision of law, the applicant was supposed to disclose the reason for calling particular person (Investigating Officer) as defence

witness in support of his case. The learned trial Court was not justified in taking away the right of defence from the applicant and it is a great violation of Article 20 of the Constitution of India.

04. Learned counsel for the State supports the impugned orders passed by the trial Court.

05. Heard learned counsel for the parties and perused the impugned orders.

06. It is clear from the impugned order dated 30.07.2018 that the learned trial Court gave as many as 7-8 opportunities to the applicant for producing list of additional defence witnesses and vide order dated 06.08.2018, the learned trial Court has rightly observed that the accused/applicant misused the opportunities granted to him and prayed for summoning the defence witnesses by mentioning the names in installment. It was further observed that earlier also the delay was caused on the part of learned counsel appearing for the accused while cross-examining, and after opportunity being granted for defence witnesses, he also caused delay in defence witnesses and tendered apology. This clearly shows the only intention of the accused/applicant just to linger on the matter.

07. In view of the above, this Court is of the considered opinion that the orders dated 30.07.2018 and 06.08.2018 passed by the Court below being fully justified, do not call for any interference in revision petition.

08. Accordingly, this revision has no substance and it is hereby dismissed.

Sd/-

(Rajani Dubey)
JUDGE

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