

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 2098 of 2019**

Shivji Prasad S/o Late R.C. Prasad, Aged about 47 years, R/o Near Sub Electric Station, Sector 3, Shivanand Nagar, Raipur, Tahsil and District Raipur, Chhattisgarh.

---Accused/Petitioner

Versus

Bhawani Provision and General Store, through Partner, Nand Kishore Kesharwani, S/o Shri Kishanlal Kesharwani, Aged about 32 years R/o Fafadih, In front of Chhoti Line, Raipur, Tahsil & District Raipur, Chhattisgarh.

--- Complainant/Respondent

For Petitioner	:	Mr. Shivendu Pandya, Advocate
For Respondent	:	Mrs. Aditi Singhvi, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

12/12/2019

1. Petitioner is an accused standing trial for offence punishable under Section 138 of the Negotiable Instrument Act, 1881 (in short 'NI Act') wherein on 11/10/2018, learned trial Magistrate granted last opportunity to the petitioner to cross-examine the complainant/respondent herein on 15/10/2018 failing which, his opportunity will be closed,

yet the petitioner again prayed for further time on 15/10/2018 which was refused by the trial Magistrate and ultimately, his opportunity to cross-examine the petitioner was closed pursuant to which he filed an application under Section 311 of the Cr.P.C., but that got rejected by the J.M.F.C. Raipur against which the petitioner preferred criminal revision and that too, got rejected vide order dated 24/04/2019. The said order was questioned in Cr.M.P. No. 1169/2019 before this Court which also stood rejected by order dated 09/05/2019. Now, the petitioner has filed this criminal miscellaneous petition under Section 482 of the Cr.P.C. challenging the order dated 15/10/2018 which has been barred by limitation by the revisional Court.

2. Heard learned counsel for the parties at length.
3. Though the petitioner ought to have cross-examined the complainant/respondent on 15/10/2018 as last opportunity was granted to him clearly indicating in the order sheet that if he fails to do so, his opportunity will be closed, yet the petitioner did not conduct himself properly and prayed for more time which was rightly not allowed by the trial Magistrate. Considering the

fact that the accused/petitioner is facing trial for offence under Section 138 of the NI Act and if the impugned order closing his opportunity to cross-examine the complainant/respondent is allowed to stand, serious prejudice will be caused to the petitioner, as such, one final opportunity is granted to the petitioner to cross-examine the complainant/respondent on the next date of hearing fixed by the trial Court i.e. on 07/01/2020 subject to payment of cost of ₹ 5,000/- to the respondent herein. If the cost is not paid, petitioner will not be permitted to cross-examine the complainant/respondent. Thereafter, the trial Court is directed to conclude the trial within 30 days from that day by holding trial on day-to-day basis.

4. With the aforesaid directions, this petition under Section 482 of the Cr.P.C. stands disposed of.
5. A copy of this order be sent to the concerned trial Court by e-mail/fax for needful and compliance.

Sd/-
(Sanjay K. Agrawal)
Judge