

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 423 of 2021**

- Neeraj Agro Industries Through Bhagidhar Ghanshyam, Das Manwani, S/o Late Girdhari Lal Manwani R/o In Front Of Shiva Mandir , Katora Talab Raipur Chhattisgarh.

----- Petitioner**Versus**

- Ashoka Kumar Israni S/o Lal Chand Israni R/o B-08, R.S. Park, Byron Bazaar, Raipur Chhattisgarh.

----- Respondent

For Petitioner	: Ms. K. Tripti Rao, Advocate
For the Respondent	: Mr. Mayank Kumar, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas**Order On Board****30.09.2021**

1. The petitioner has filed this petition challenging the order dated 07.03.2020 passed by learned Judicial Magistrate First Class, Raipur(CG) by which the learned trial Court has closed the right of the petitioner to lead evidence and thereafter the petitioner has filed revision petition bearing Criminal Revision No.263/2020 before the Revisional Court and the Revisional Court has also dismissed the same vide its order dated 05.03.2021.
2. This Court vide its order dated 17.09.2021 has granted stay of the further proceedings of the trial Court and issued notice to respondent. In pursuance of the order passed by this Court the respondent appeared before this Court and submits that the ample opportunity has been granted to the petitioner despite that petitioner has not utilized the opportunity given to him, therefore, no leniency can be done and present CRMP is liable to be dismissed with cost. Though, it may be true that petitioner has availed ample opportunity to defend his case but on 07.03.2020 on behalf of accused an application under Section 315 of the CrPC was filed contending that he wants to examine himself as defence witness but the same has been rejected by learned trial Court on count that right of the petitioner to lead

evidence has already been closed on 12.02.2020. The records of the case would show that the accused has recorded his statement under Section 313 of the CrPC on 31.07.2019 and thereafter the case was listed on 16.08.2019 and after that the matter was listed on 12.02.2020 and right of the petitioner to lead evidence was closed. Thereafter the petitioner has filed an application on 07.03.2020 when the matter was already fixed for final argument to examine himself as defence witness.

3. From the records it reflects that the petitioner's right to lead evidence has already been closed on 12.02.2020 and present application for recording of his statement has also been rejected but the principle of natural justice requires that the accused should be given proper opportunity to defend the case therefore, one opportunity may be given to the petitioner to lead his evidence.
4. Learned counsel for the petitioner would submit that on the next date of hearing i. e. on 18.10.2021, the petitioner may record his statement as defence witness or on subsequent one date which shall not be more than 15 days from 18.10.2021. The opportunity has been granted to the petitioner subject to payment of cost of Rs.2,500/- payable to the complainant. If the cost is not paid to the complainant on 18.10.2021, the opportunity granted by this Court shall not given effect to, the payment of cost as it is condition precedent for grant of opportunity to the petitioner.
5. With this observation, thus, the order dated 07.03.2020 is quashed and the petition is allowed as indicated above.

Sd/-
(Narendra Kumar Vyas)
Judge