

...Petitioner

Central Bureau of Investigation and Anr.

...Respondents

Mr. Vivek Yadav i/b Mr. Pankaj D. Purway, for the Petitioner.

Ms. H. S. Venegavkar, for the Respondent No.1 - CBI.

Mr. H. J. Dedhia, A.P.P for the Respondent No.2- State.

CORAM : REVATI MOHITE DERE, J.
DATE : 17th MARCH 2022

P.C. :

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Mr. Venegavkar, waives notice on behalf of the Respondent No.1 – CBI. Learned APP waives notice on behalf of the Respondent No. 2 – State.
3. By this petition, the petitioner is aggrieved by the order dated 30th March 2021, passed by the learned Special Judge (CBI), Greater Bombay, below Exhibit – 219 in CBI Special Case No.109 of 2013,

inasmuch as, it permits the petitioner to cross-examine PW2 – Teekachand Gopala, only through video-conferencing.

4. Learned Counsel for the petitioner submits that earlier the said witness i.e. PW2 – Teekachand Gopala was examined through video-conferencing because of the Covid situation and the SOP's in that regard, which circumstances have changed since then. He submits that the petitioner intends to confront PW2 with respect to certain documents and therefore his presence will be necessary.

5. Mr. Venegavkar, learned Special Public Prosecutor appearing on behalf of the respondent No.1 – C.B.I states that if a direction is given, the respondent No.1 – C.B.I will take steps to keep the witness present, on the dates given by the trial Court.

6. Perused the papers in particular the impugned order. The learned Special Judge allowed the application filed by the petitioner and permitted the petitioner to cross-examine PW2 – Teekachand Gopala. A perusal of the said order shows that the learned Judge permitted the

petitioner to cross-examine PW2, subject to the condition that he has to cross-examine the said witness through video-conferencing and that due to technical defect, if it is unable to record the evidence through video-conferencing, then the accused will have to bear the expenses to secure the presence of the witness including the costs. The said application preferred by the petitioner was allowed, subject to the observations made therein.

7. Learned Counsel for the petitioner states that the petitioner will deposit Rs.15,000/- in the registry of the trial Court, towards costs that are likely to be incurred by the said witness and more particularly since the said witness is required to come from Uttar Pradesh. Since the petitioner intends to confront the said witness with respect to certain documents, the presence of PW2 would be necessary, in the peculiar facts of this case.

8. Learned Counsel for the respondent No.1– CBI has no objection, if PW2 is summoned to appear personally for cross-examination on payment of some costs.

9. Accordingly, the petition is allowed. The learned Judge to

issue summons to PW2 – Teekachand Gopala, for his appearance before the trial Court, so as to enable the petitioner to cross-examine the said witness. The petitioner to deposit Rs.15,000/- in the trial Court, which costs shall be paid to the PW2, towards his travel.

10. Learned Counsel for the petitioner states that he will deposit the said costs of Rs.15,000/- in the trial Court, within one week from today. Learned Counsel also assures this Court that the advocate appearing on behalf of the petitioner in the trial Court will cross-examine PW2 – Teekachand Gopala on the date PW2 appears before the trial Court and that the advocate will not seek adjournment on any ground. Statement accepted.

11. Considering the aforesaid, the Petition is allowed in the aforesaid terms and is accordingly disposed of. Rule is made absolute in the aforesaid terms.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.