IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA
Cr.MMO No.859 of 2026
Decided on 05.11.2026

Hem Raj ...Petitioner

Versus

State of H.P. & Anr. .....Respondents

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting? [1]

For the Petitioner : Ms. Nitasha Negi, Advocate, vice Mr. Rupinder S. Minhas, Advocate.

For the Respondents : Mr. Rajpal Thakur, Additional Advocate General, for respondent No.1.
Mr. Yudhvir Sigh Thakur, Advocate, for respondent No.2.

Chirag Bhanu Singh, Judge *(Oral):*

By way of the present petition, filed under Section 528 of of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), the petitioner seeks the quashing and setting aside the order dated 07.05.2026 passed by the learned Additional Chief Judicial Magistrate, Court No.1, Sundernagar, District Mandi, H.P.

2. The short grouse espoused by the petitioner is that the petitioner had been denied an opportunity to cross examine

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

the complainant's witness, which has caused serious prejudice to him and as such, the impugned order dated 07.05.2026 is liable to be quashed and set-aside.

3. Though, prima facie, there is nothing wrong with the order, as admittedly since 20.02.2025, innumerable opportunities have been afforded to the petitioner to cross examine the complainant's witness, but to no avail. Even on 12.03.2026, the petitioner had been afforded a last opportunity to cross examine the complainant's witness.

4. Strangely on 07.05.2026 too, despite having been afforded ample time, the witness was not cross examined. Thus no fault can be attributed to the orders passed by the learned trial Court. Nonetheless seeing to the fact that the petitioner, who is the accused, has been unable to cross examine the witness and as per the learned counsel the lapse had occurred because the original counsel was not present in the Court that day.

5. Seeing to the said peculiar circumstances, it seems that the right of the accused could not be prejudiced and that too from the absence of the learned counsel and as a matter of indulgence, one final opportunity is thus granted to the

petitioner/accused to cross examine the witness, though subject to the payment of costs of Rs.10,000/-. Half of the cost shall be paid to the complainant/respondent, while the other half be deposited in the Chief Justice Relief Fund.

6. The parties through their respective counsel are directed to appear before the learned trial Court on **07.12.2026.**

7. Ordered accordingly.

8. The petition is disposed of in the aforesaid terms, so also pending application(s), if any.

(Chirag Bhanu Singh)
Judge

November 05, 2026
(subhash sharma)