

## Bishwajeet Nayak Vs The State of Jharkhand

**Court:** Jharkhand High Court

**Date of Decision:** Jan. 24, 2013

**Citation:** (2013) 3 JLJR 469

**Hon'ble Judges:** Harish Chandra Mishra, J

**Bench:** Single Bench

**Advocate:** Atanu Banerjee, for the Appellant;

### Judgement

@JUDGMENTTAG-ORDER

Harish Chandra Mishra, J.

Heard learned counsel for the petitioner and learned A.P.P. for the Prosecution. The petitioner is aggrieved by

the order dated 1.10.2012 passed by the learned 1st Addl. Sessions Judge, Bermo at Tenughat, in S.T. No. 169 of 1995, whereby, the defence

evidence was closed by the Court below.

2. It appears from the certified copy of the order-sheet filed by the petitioner that on 4.9.2012, the summons were issued to the two witnesses by

the Court below to be examined on behalf of the defence and both of them are the police officials. Thereafter, on 18.9.2012 one more opportunity

was granted to the defence for examining the witnesses and on next day i.e., on 1.10.2012, the defence evidence was closed. It appears that even

the service reports of the summons were not received by the time, the defence evidence was closed by the Court below.

3. In the facts of this case, I am of the considered view that once the Court below had allowed the application of the defence for examining the two

police officials and have issued summons to them, the Court ought to have awaited the service reports of the summons issued to the witnesses and

also ought to have given the sufficient opportunity to the defence for examining the witnesses. I am of the considered opinion that sufficient

opportunity has not been granted to the defence for examining those witnesses.

4. Accordingly, the impugned order dated 1.10.2012 passed by the learned 1st Addl. Sessions Judge, Bermo at Tenughat, in ST. No. 169 of

1995, is hereby, set aside and the Court below is directed to give sufficient opportunity to the defence for examining the said witnesses who were

summoned by the Court below vide order dated 4.9.2012.

5. This application is accordingly, allowed.

6. The aforesaid I.A. also stands disposed of. Let this order be communicated to the Court concerned through FAX at the cost of the petitioner.