

**(2013) 01 JH CK 0056**

**Jharkhand High Court**

**Case No:** Criminal Revision No. 917 of 2012 and I.A. No. 390 of 2013

Bishwajeet Nayak

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

**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.