

Single Bench

IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

Criminal Revision No. 72 of 2014

APPLICANT
(in Jail)

::: Mithlesh Kumar Nirmalkar @
Golu Nirmalkar, S/o. Lalji
Nirmalkar, aged about 19 years,
R/o. Village Atarmara, Police
Station Rajim, Revenue District
Gariaband and Civil District
Raipur (C.G.)

R. No. 72/14
Presented by Shri. M. S. S.
Dated 30/11/14

Versus

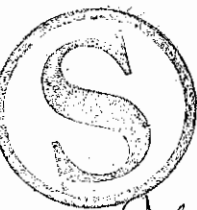
RESPONDENT

: State of Chhattisgarh through
Station House Officer, Police Station
Rajim, Revenue District
Gariaband and Civil District Raipur
(C.G.)

CRIMINAL REVISION APPLICATION UNDER SECTION
397 READ WITH SECTION 401 OF THE CODE OF
CRIMINAL PROCEDURE

Crime No.	187/13
Under Section	376, 417 IPC and Section 4,8 of Gender Act and 3 (1)(12) of Atrocity Act
Police Station	Rajim
Cr. Case No.	69/13 in the Court of Special Judge (Atrocities), Raipur
Status of the case	Fixed for framing of charge

Being aggrieved with the order in ordersheet
dated 31.12.2013 passed by the Special Judge
(Atrocities) Raipur in Criminal Case No. 69/13 whereby
the Court has accepted the prayer for DNA Test of
accused, complainant and the child but refused the
application for not framing charges till receiving of DNA
Report, the applicant begs to prefer this revision on the
following facts and grounds, amongst others.



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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Criminal Revision No. 72 of 2014

Applicant

Mithlesh Kumar Nirmalkar @

Golu Nirmalkar

VERSUS

Respondent

State of Chhattisgarh

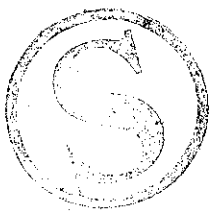
**Present:- Shri Y. C. Sharma, counsel for the applicant.
Shri Arvind Shukla, PL for the State/ respondent.**

**Oral Order
(04.02.2014)**

By way of the instant revision, the applicant has challenged the order dated 31.12.2013 passed by Special Judge (Atrocities) Raipur in criminal case No. 69/2013. The grievances of the applicant is that a criminal case No. 187/13 has been registered against him for offence u/s. 376, 417 of IPC, section 4,8 of Gender Act and 3(1) (12) of the Atrocities Act.

2. Facts leading to the instant criminal revision is that complainant has registered a case against the accused and the police has filed challan before the trial court and the case is fixed for framing of charges. The applicant has moved two applications before the trial court the first application was for getting DNA test conducted to ascertain the paternity of the child born to the victim prosecutrix and second application was that for not framing charges till receiving of DNA report. On consideration of application the trial court vide its judgment dated 13.12.2013 has allowed the application for conducting the DNA test. However, the application for framing of charges has not been accepted and the same was rejected.

3. It is this judgement dated 31.12.2013 which has been assailed by the petitioner in the instant criminal revision.



4. On due consideration of the fact, it is found that the court has considered the defence of the applicant allowing the application filed by the applicant for conducting the DNA test to ascertain the paternity of the child born to the victim prosecutrix. However, the court did not find it to be fit that only because the application for DNA test has been allowed would not mean that the proceedings before the Court below should be stayed. If it all the report of DNA test is received in favour of the applicant, the applicant would have a liberty of using the same before the appropriate forum at appropriate time and it seems, it is for this reason that the court below, in spite of allowing the DNA test, has not considered the request of the applicant for deferring of framing of charges. Needles to add at this juncture that if it all if the report of DNA test is in favour of the applicant, he has to option to initiate appropriate proceeding for quashing of the entire criminal proceeding.

5. For the foregoing reasons, in the opinion of this Court, the court below has not committed any error of law while passing the impugned order calling for any interference at this stage invoking the revisional power of this court.

6. In view of the above, the instant criminal revision is dismissed being devoid of merit.

Sd/-
P. Sam Koshy
Judge