HIGH COURT OF CHHATTISGARH, BILASPUR

W.P(227) No. 511 of 2015

Chandram Ram Sidar S/o Late Vishvnath Sidar Aged About 38 Years Profession Panchayat Teacher R/o Near The Chandidai Temple Bazarpara Chandipara Pamgarh Police Staiton Pamgarh District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. Shivkumar Yadav S/o Sonaram Yadav Aged About 43 Years Through Its Satish Provisional Store Sasaharoad Pamgarh, Tahsil & Police Station Pamgarh, District Janjgir Champa Chhattisgarh
2. State Of Chhattisgarh Through Its Superintendent Of Police Bilaspur District Bilaspur Chhattisgarh

---- Respondents

For Petitioner: Shri Vikrant Pillai, Advocate.
For Respondent No.1: Shri Raj Awashti, Advocate.

Single Bench: Hon'ble Shri P. Sam Koshy, J

Order On Board

6.11.2015

1. The Petitioner through the instant writ petition has challenged the order Annexure P-1 dated 25.6.2015 whereby the application under Section 386 r/w 391 CrPC has been rejected by the 4th Additional Sessions Judge, Bilaspur.

2. The facts in the nut-shell are are that the Petitioner is said to have issued a cheque in favour of Respondent No.1 for an amount of Rs.3,00,000/-, which in due course has got dishonoured against which, proceedings under Section 138 of the Negotiable Instruments Act have been initiated and the Court proceedings culminated into the conviction of the Petitioner with a sentence of R.I for 6 months and fine with default stipulations.

3. Against the said judgment of conviction, the Petitioner has preferred an appeal before the 4th Additional Sessions Judge, Bilaspur, which is registered as Criminal Appeal No.62/2014. Pending the appeal before the Sessions Court, the Petitioner is said to have moved an application under Section 386 r/w 391 Cr.P.C seeking for sending the matter back for permitting Petitioner to lead

evidence in his defence. The said application was rejected by the Court below on 25.6.2015 giving rise to the present Writ Petition.

4. Taking into consideration the factual background of the case particularly the fact that the matter arose from the Court of 4th Additional Sessions Judge, Bilaspur in a Criminal Appeal, this Court is of the opinion that the present writ petition, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution, would not be maintainable and if at all the Petitioner is aggrieved by the said order, he shall move an appropriate application under Section 482 Cr.P.C before the appropriate Court.

5. In view of the same, the present Writ Petition is dismissed as not maintainable.

Sd/-
(P. Sam Koshy)
Judge

Priya