

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 506/2015

(Smt. Jayshree w/o Suresh Nayar vs. Vidyasagar Garg s/o Banarasi Das and others)

AND

CRIMINAL APPLICATION (APL) NO. 512/2015

(Smt. Jayshree w/o Suresh Nayar vs. Vidyasagar Garg s/o Banarasi Das and others)

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

.....
Mr. C.S.Dhore, Advocate for applicant
Mr. A.T.Purohit, Adv. for Respondent No.1
Ms.Kirti Satpute, Adv.for Respondent nos. 2 to 7

CORAM: A.B.CHAUDHARI, J.

DATED : 26th November, 2015.

Heard.

In view of the *dictum* laid down by the Hon'ble Supreme Court in the case of Urmila Devi vs. Yudhvir Singh, reported in 2013 (15) SCC 624, the applicant is relegated to the ordinary remedy of filing Revision before the Sessions Court. I quote paragraph nos. 22 and 23 from the said judgment, for ready reference:

“22. When we declare the above legal position without any ambiguity, we also wish to draw support to our above conclusion by referring to some of the subsequent decisions. In a recent decision of this Court in Om Kumar Dhankar v. State of Haryana (2012) 11 SCC 252; the decision in Madhu Milaye, (1977) 4 SC.C. 551; V.C. Shukla : Supp SCC 92, K.M.Mathew: (1992) 1 SCC 217; Rakesh Kumar Mishra vs. State of Bihar : 2006 1 SCC 557, ending with

Rajendra kumar Sitaram Pande (1999) 3 SCC 134 was considered and by making specific reference to para 6 of the judgment in Rajendra Kumar Sitaram Pande, this Court has held as under in para 10: (Om Kumar Dhankar case, SCC p.255)

10. In view of the above legal position, we hold, as it must be that revisional jurisdiction under Section 397 CrPC was available to Respondent 2 in challenging the order of the Magistrate directing issuance of summons. The first question is answered against the appellant accordingly.

23. Therefore, the position has now come to rest to the effect that the revisional jurisdiction under Section 397 CrPC is available to the aggrieved party in challenging the order of the Magistrate, directing issuance of summons.”

Both the Applications stand disposed of, with liberty to take up the remedy of Revision.

JUDGE

safare