

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No.75 of 2016

M.R. Sahu, S/o Shri Mayaram Sahu, aged about 45 years, working as Forest Ranger, State Forest Research and Training Institute, Zero Point, Near Vidhan Sabha, Raipur, District Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Home, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)
2. State of Chhattisgarh, through the Police Station AJAK, Kalibari, Raipur, District Raipur (C.G.)
3. R.K. Patle, Technical Assistant, State Forest Research and Training Institute, Zero Point, Near Vidhan Sabha, Raipur, District Raipur (C.G.)
4. Ragini Mishra, D.S.P. (Investigating Officer), through the Police Station AJAK, Kalibari, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Prateek Sharma, Advocate.

For State/respondents No.1 and 2: -

Mr. Adhiraj Surana, Deputy Government Advocate, on advance copy.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

28/03/2016

1. In this petition, the petitioner seeks to challenge the order framing charge and the charges framed against the petitioner and eventually also challenged the FIR and charge-sheet filed against him stating inter alia that no offence is made out

against the petitioner.

2. Learned State counsel, at the outset, would submit that the order passed by the Court of Session framing charges against the petitioner is revisable under Section 397 read with Section 401 of the CrPC and therefore the petitioner be relegated to the remedy of revision under Section 397 read with Section 401 of the CrPC.
3. I have heard learned counsel for the parties on admission, given thoughtful consideration to the submissions raised therein and gone through the record with utmost circumspection.
4. Concededly, the order framing charge is a revisable order under Section 397 read with Section 401 of the CrPC and as such, the statutory alternative remedy of revision is available to the petitioner.
5. In the matter of **Chandra Babu alias Moses v. State Through Inspector of Police and others**¹, the Supreme Court while reiterating the scope of revisional jurisdiction has categorically held that revisional jurisdiction should normally be exercised on question of law, however, factual appreciation is permissible in case of perverse finding.
6. In the matter of **Union of India and others v. Major General Shri Kant Sharma and another**², in paragraph 36, the

1 (2015) 8 SCC 774

2 (2015) 6 SCC 773

Supreme Court has summarized the law on the point and held that writ court must have due regard to the legislative intent evidenced by the provisions of the Acts and should exercise its jurisdiction consistent with the provisions of the Act and when a statutory forum is created by law for redressal of grievances, the writ petition should not be entertained ignoring the statutory dispensation, and observed as under: -

“36. The aforesaid decisions rendered by this Court can be summarised as follows:

- (i) The power of judicial review vested in the High Court under Article 226 is one of the basic essential features of the Constitution and any legislation including Armed Forces Tribunal Act, 2007 cannot override or curtail jurisdiction of the High Court under Article 226 of the Constitution of India. (Refer: L. Chandra Kumar³ and S.N. Mukherjee⁴).
- (ii) The jurisdiction of the High Court under Article 226 and this Court under Article 32 though cannot be circumscribed by the provisions of any enactment, they will certainly have due regard to the legislative intent evidenced by the provisions of the Acts and would exercise their jurisdiction consistent with the provisions of the Act. (Refer: Mafatlal Industries Ltd.⁵).
- (iii) When a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. (Refer: Nivedita Sharma⁶).
- (iv) The High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under

3 L. Chandra Kumar v. Union of India, (1997) 3 SCC 261 : 1997 SCC (L&S) 577

4 S.N. Mukherjee v. Union of India, (1990) 4 SCC 594 : 1990 SCC (Cri) 669

5 Mafatlal Industries Ltd. v. Union of India, (1997) 5 SCC 536

6 Nivedita Sharma v. Cellular Operators Assn. of India, (2011) 14 SCC 337 : (2012) 4 SCC (Civ) 947

which the action complained of has been taken itself contains a mechanism for redressal of grievance. (Refer: Nivedita Sharma¹¹).”

7. In the case in hand, the petitioner has alternative remedy of filing revision under Section 397 read with Section 401 of the CrPC against the order framing charge and the result / interference, if any, in the impugned order in favour of the petitioner will take care of the other reliefs claimed in the writ petition. Therefore, I am of the considered view that the remedy of revision, which is available to the petitioner, is efficacious as well as alternative remedy in the light of decisions of the Supreme Court in the above-stated cases and as such, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed at the admission stage itself without notice to the other side. However, this dismissal will not be a bar for the petitioner to avail the statutory alternative remedy in accordance with law for redressal of his grievances. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge