

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (Cr.) No. 99 of 2016**

Smt. Sarita Katiyara, W/o Satish Katiyara, aged about 47 years, R/o B-1, Avanti Vihar, P.S. Telibandha, Tah. & Distt. Raipur (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through – The Secretary, Department of Law and Legislative, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)
2. District Magistrate, Raipur, District Raipur (C.G.)
3. Amit Jain, S/o Champa Lal Jain, aged about 29 years, R/o Anuvrat residency, Jhanda Chowk, New Shanti Nagar, P.S.- Civil Line, Raipur, Tah. & Distt. Raipur (C.G.)

---- Respondents

For Applicant: Mr. Shrawan Agrawal, Advocate.
For Respondents No.1 & 2/State:
Mr. Arun Sao, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****20/04/2016**

Heard.

(1) The petitioner is an accused in pending trial for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881 (for short 'NI Act,1881'). By order dated 9.3.2015 substance of accusation is stated to the petitioner by the trial Court.

(2) The petitioner preferred revision against the order dated 9.3.2015, which was dismissed by the Court of Session by order dated 2.12.2015. The petitioner preferred Criminal Miscellaneous

Petition No.1176/2015 there-against, which was also dismissed by this Court by order dated 8.2.2016.

(3) Now, the petitioner has preferred instant writ petition stating that the trial Court be directed to provide all the documents filed by him; and the proceedings under Section 138 of the NI Act be declared as void as he is entitled for copy of the entire documents.

(4) In the CrMP filed before this Court (Coordinate Bench), similar arguments was raised by the petitioner; and this Court by order dated 8.2.2016, rejected the plea of the petitioner holding that in the summons case, no such provision as mentioned in Section 207 of the Cr.P.C. has been enacted. Relevant report of the order dated 8.2.2016 states as under:-

“6. From bare reading of the above provisions, as a settled law when the process are issued they shall be accompanied by a copy of such complaint. There is no provision except the supply of copy of statement and document, other than a case triable by Court of Session though there are provisions under Section 207 Cr.P.C. wherein if a proceeding has been initiated on a police report then it is required to furnish to the accused, free of cost, copy of the report and other documents as mentioned in section 207 of the Cr.P.C. Incidentally, for the present case, which is a summon triable case, no such provision has been enacted in the legislation.

7. For the facts of the present case, while perusal of para 5 of the order of the revisional Court, it goes to show that in the process it is mentioned that copy of the complaint is annexed and also in a receipt of a process sent through registered mode, the same was received by the petitioner. No prayer has been made

before the Court below regarding any enquiry if it can be initiated for the allegations of any false signature on the service of notice. In absence of any such prayer, in the considered view of this Court, the fact that the copy of the complaint case was annexed along with process, same has been served by registered mode to the petitioner can be admitted without any doubt for the moment and also with the facts that supply of documents is not a requirement in Section 204 Cr.P.C. Of sub-section (3) and also this is a summons triable case only and not the case instituted on a police report triable by the Court of Session. In the considered view of this Court, no illegality or impropriety has been committed by the Courts below and as such the complainant is not entitled to get the copy of the document in absence of any specific legislation in the matter.”

(5) From the perusal of the above stated order passed by this Court (Coordinate Bench), it is quite vivid that this Court has clearly held that petitioner is not entitled to get copy of all the documents in absence of specific legislation in the matter, and the case of the petitioner is covered by decision of this Court rendered between the parties *inter se* and, as such, the petitioner cannot maintain this Writ Petition for the similar relief, which has already been decided by this Court.

(6) As a fallout and consequence of the aforesaid discussion, the writ petition deserves to be and is accordingly dismissed. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

