

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P. No. 695 of 2016**

Praveen Deshlahra S/o Hemshankar Deshlahra Aged About
28 Years R/o M.I.G.-2/229-A, Borsi Colony, Durg, Police
Station Pulgaon, District Durg Chhattisgarh.

---- Petitioner**Versus**

State of Chhattisgarh Through The Station House Officer,
Police Station Gunderdehi, District Balod, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Anup Majumdar, Advocate
For Respondent /State	:	Shri B. Gopa Kumar, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order On Board****05.07.2016**

1. The Petitioner has preferred the present Miscellaneous Petition aggrieved by the order dated 02.04.2016 passed in Criminal Revision No. 11/2016 by the Second Additional Sessions Judge, Balod whereby the Revisional Court rejected the revision preferred by the Petitioner against the order dated 23.01.2016 passed by the Judicial Magistrate First Class, Gunderdehi, District – Balod in Criminal Case No. 498/2015 filed under Section 239 Cr.P.C. preferred by the present Petitioner.

2. Learned Counsel for the Petitioner assailing the order submits that the two Court below have not appreciated the factual background of the case in its correct perspective. According to the Counsel for the Petitioner the dispute between the parties is in fact

contractual in nature and there is no element of criminality in the said allegation as alleged by the Respondent. He further submits that even otherwise the terms of the contract purely specifies that in any case of breach of contract the Petitioner can be penalised by imposing a heavy penalty inscribed in the contract itself and therefore the complaint could not have been lodged at this stage. Hence, the complaint made against the present Petitioner ought to have been dropped and the Court below ought not to have registered the case against the petitioner.

3. Having considered the contentions put forth by the learned Counsel for the Petitioner and considering the fact that the present Petition has been preferred under Section 482 Cr.P.C. wherein this Court has very limited power to interfere with at this stage of the trial. The power under Section 482 Cr.P.C. could be exercised only when the orders passed by the Trial Court or for that matter Revisional Court has an error of law or there is perversity in the findings of facts.

4. From the nature of the complaint which has been levelled against the Petitioner, prima facie, there is a suspicion and doubt created on the conduct of the Petitioner, and taking that into consideration the case has been registered against him. Further the finding of the Court below is that the Application moved by the petitioner is premature at that juncture. The contention put forth before the Revisional Court as well as before this Court in the present Petition, are the facts which can brought to the notice of the Court below at the time of framing of charge where the petitioner will

also be able to convince the court on the basis of the documents attached to the charge-sheet filed before the trial court.

5. Accordingly, the Present Cr.M.P. being devoid of merit the same is rejected.

6. However, it is made clear that the reluctance while not entertaining the present Petition would not preclude the Petitioner from raising these grounds before the Court below at the time of framing of charge or at other appropriate stage.

7. The Cr.M.P. stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE