

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 686 OF 2016

Santosh Dahire, aged about 45 years, S/o Late Mahettar Dahire, R/o Village- Binjhauri, Police Station, Tahsil & District- Mungeli, at present Kailash Nagar, Lohara Road, Kawardha, District- Kabirdham (C.G.)

... Petitioner

Versus

State of Chhattisgarh, through the Station House Officer, Police Station- Lalpur, District Mungeli (C.G.)

... Respondent

For Petitioner	:	Mr. Vipin Singh, Advocate.
For Respondent	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/07/2016

1. By way of the present petition under Section 482 CrPC, the Petitioner has challenged the order dated 2.3.2016 passed by the Additional Sessions Judge, Mungeli, in Criminal Revision No. H-1/2016.
2. Vide impugned order dated 2.3.2016, the Revisional Court has rejected the revision preferred by the Petitioner assailing the order dated 23.12.2015 passed by the Judicial Magistrate First Class, Lormi in Crime No. 197 of 2015, whereby the application filed by the Petitioner under Section 451 CrPC seeking for release of the vehicle involved in the offence on Supurdnama was rejected.
3. Facts of the case in nutshell are that a Hero Honda Motorcycle, bearing Registration No. HR26-BQ/5919 was seized from the possession of the accused persons who were involved in the offence punishable under Sections 279, 337 and 304-A IPC and the said motorcycle is in the custody of the police authorities since the day it was seized i.e. on 17.11.2015.

4. During the course of the trial before the Judicial Magistrate First Class, the present Petitioner who is said to be a power of attorney on behalf of the actual owner had moved an application under Section 451 CrPC for releasing of the seized motorcycle on Supurdnama. The Trial Court vide its order dated 23.12.2015 after considering the merits of the case and taking note of the fact that the power of attorney does not relate to the original owner of the seized motorcycle and further taking into consideration the fact that there were some discrepancies on the stamp papers on which the power of attorney was executed inasmuch as the same was issued in the name of one Narayan who had purchased the said stamp paper on 1.10.2011 before the date of occurrence of the incident, whereas the power of attorney has been executed in the name of the present Petitioner and since the documents enclosed along with the application created doubt in the mind of the Court, rejected the application of the Petitioner preferred under Section 451 CrPC.

5. Against the said order dated 23.12.2015, the Petitioner had preferred a revision before the Revisional Court and the said Court also taking into note of these facts and the discrepancies that have arisen in the documents attached with the said application and finding them to be doubtful, rejected the revision preferred by the Petitioner vide impugned order dated 2.3.2016.

6. Learned Counsel for the Petitioner makes a submission that the power of attorney can be executed to any person and it need not be to the family members of the claimant alone and taking into consideration the fact that it is only for the release of a motorcycle the attorney holder has been contracted, the same should therefore not have been rejected by the Court below.

7. Considering the total facts and circumstances of the case more particularly the reasons assigned by the Court below while rejecting the application, once when there is a doubt created in the mind of the Court so far as the credential of the present Petitioner moving the said application for Supurdnama and also the fact that the documents also do not seem to have been properly executed, this Court is of the opinion that no good case is made out for interfering with the two orders passed by the Courts below.

8. The present Criminal Misc. Petition being devoid of merits, the same is accordingly dismissed.

/sharad/

Sd/-
(P. Sam Koshy)
Judge