

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 990 of 2016**

- Hema Dhruw W/o Shri Rajesh Dhruw, Aged About 34 Years R/o Sector - II Block 10 House No. 6 Kashiram Nagar, Raipur District Raipur Chhattisgarh

**---- Applicant****Versus**

- Devendra Verma S/o Late Shri Shantilal Verma, Aged About 62 Years Principal Secretary, Chhattisgarh Vidhan Sabha Secretariat Hall, R/o E -1 Vidhansabha Awasiya Parisar Zero Point - Raipur, Police Station Vidhan Sabha, District Raipur Chhattisgarh.

**---- Respondent**


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For Applicant : Mr. Bhaskar Pyasi, Advocate

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**SB: Hon'ble Shri Justice P.Sam Koshy****Order On Board****25.10.2016**

1. The present petition has been filed assailing the order dated 16.08.2016 passed by the Special Judge (Atrocities), Raipur in Miscellaneous Judicial Case No. 6/16.
2. Vide the said impugned order the Court below has refused to take cognizance of the complaint made by the Applicant on the ground that prior sanction has not been obtained by the Applicants before the complaint case was filed.
3. Learned Counsel for the Applicant referring to the provision of Section 197 of the Cr.P.C. submits that the nature of complaint in the offence which was sought to be registered against the Respondent was one which would fall within the exception of general rule under Section 197 of the Cr.P.C.
4. The Counsel for the Applicant refers to the explanation to the provisions under Section 197(1) wherein it has been clearly held that it will fall in the

amendment which has been brought with effect from 3.2.13 holding as under:

*“Explanation - For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under Section 166-A, Section 166-B, Section – 354, Section – 354-A, Section 354-B, Section 354-C, Section 354-D, Section 370, Section 375, Section 376, Section 376-A, Section 376-C, Section 376-D or Section 509 of the Indian Penal Code”*

5. A plain reading of the said explanation clause itself clearly reflects that in the cases where the offence leveled against the respondent officer is one which falls among sections which is enumerated in the explanation clause the sanction would not be necessary. This aspect of the provision has been overlooked or was not brought to the notice of the Court below and therefore the impugned order does not appear to be proper, legal and justified.
6. Accordingly, the order dated 16.08.2016 stands quashed / set aside and the matter is sent back to the Court below for reappreciating the facts of the complaint again and take a fresh decision in accordance with its merits keeping in view the provisions of the explanation to Section 197(1) of the Cr.P.C.
7. With the aforesaid observation the present Revision stands allowed and disposed off.

**Sd/-  
(P. Sam Koshy)  
JUDGE**