

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 240 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
(Chhattisgarh).

---- Appellant

Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Law And Legislative, Mahanadi Bhawan, Mantralaya, New
Raipur, District Raipur (Chhattisgarh)
2. District Magistrate, Raipur, District Raipur (Chhattisgarh)
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 (Chhattisgarh)

---- Respondent

For Appellant	: Shri Shravan Agrawal, Advocate.
For Respondent/State	: Shri Prafull Bharat, Addl. A.G.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Inder Singh Uboweja

Judgment on Board by Justice Pritinker Diwaker

11/05/2016

In a complaint case filed by respondent No.3 under Section 138 of Negotiable Instruments Act, the appellant herein is an accused. According to the appellant, on 9.3.2015 the trial Court proceeded against her without supplying the relevant documents and therefore, she preferred a revision, however, the same was dismissed vide order dated 2.12.2015. The revisional order was unsuccessfully assailed by the appellant before this Court in a petition under Section 482 of

Cr.P.C. When the appellant could not succeed in the said petition, she filed a petition under Article 226 of the Constitution of India i.e. W.P. (Cr.) No.99/2016 praying for direction to the trial Court that while proceeding under Section 251 of Cr.P.C., the original documents be kept in the custody of the Magistrate; to supply all the relevant documents to her including the complaint and for *de novo* trial.

02. Indirectly, the appellant has prayed for the same relief, which were refused by this Court in the petition filed by her under Section 482 of Cr.P.C. While dismissing the said petition, it was observed by this Court 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.”

3. Further, the relief claimed by the appellant in the writ petition is almost identical which was prayed by her while assailing the order of the revisional Court. Once this Court has already held that the appellant is not entitled to get copy of all the documents in absence of specific legislation in the matter and the case of the appellant is covered by the decision of this Court rendered between the same parties, the writ Court was fully justified in dismissing the writ petition filed almost for the similar relief. In this view of the matter, we find no illegality or perversity in the order impugned for interference. The appeal being without any substance is liable to be dismissed *in limine* and is, accordingly, dismissed.

Sd/
(Pritinker Diwaker)
Judge

Sd/
(I.S. Uboweja)
Judge