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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No.265 of 2016**

Krishna Kumar Dubey, S/o. Shri Ramjas Dubey, aged about 57 years, R/o. Devi Nagar, Gali No.3, Maharana Pratap Chowk, Bilaspur Police Station Civil Line Bilaspur Tahsil & Distt. Bilaspur (CG)

---- **Petitioner/Appellant/Accused**

Versus

Renuka Baghel, W/o. Late Shri Ratan Lal Shrivastava, Aged about 56 years, Aangabadi Worker, R/o. Shailendra Apartment, Face-3, Jarahabhatha, Police Station Civil Lines Bilaspur, Tahsil & Distt. Bilaspur (CG)

---- **Respondent/Complainant**

Shri Rishi Rahul Soni, counsel for the petitioner.
Respondent not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

02.3.2016.

Learned counsel for the petitioner submits that looking to the entire facts of the case, the same may be heard without even noticing the respondent. It is submitted on behalf of the petitioner that as per the appreciation of the order dated 06.5.2015 passed by the trial Court, the application filed under Section 340 of the Code of Criminal Procedure, 1973 (for short 'the Code') is the subject matter to be appreciated after considering the matter on its merits and without evidence no any adjudication may be drawn out and as the Court below dismissed the application at the relevant stage and also made it clear that both the parties during evidence are free to take the ground and to prove by the evidence goes to show that the application under Section 340 of the Code is not dismissed on its merits, hence, an opportunity to the petitioner may be kept reserved

during future trial in the trial court and the petitioner may raise the matter during the said trial for the purpose of appreciation regarding application made under Section 340 of the Code. Hence, the petitioner may be permitted to withdraw the instant petition reserving aforesaid liberty by directing the Court below to treat the application under Section 340 of the Code as pending and the same may be disposed of at the time of final hearing of the matter.

2. On due consideration, looking to the entire facts and the impugned order dated 06.5.2015 passed by the trial Court, the instant petition is disposed of. It is directed that the impugned application under Section 340 of the Code shall be kept pending, the parties may substantiate their pleadings regarding application under Section 340 of the Code also during trial. The trial Court is also directed to appreciate the merits of the application under Section 340 of the Code along with the matter pending before the trial Court and shall dispose of the same at the time of the final order to be passed by the Court below.

3. With the above direction, the instant petition is disposed of.

4. Needless to mention while deciding the said application in the final order under Section 340 of the Code, the trial Court shall not influence by impugned order dated 06.5.2015 and also order dated 11.01.2016 passed by Additional Sessions Judge (FTC), Bilaspur in Criminal Appeal No.91/15 and the same be disposed of strictly on the basis of its merits.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE