

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr. Revision No. 968 of 2015

1. State of Chhattisgarh Through the Station House Officer, Police Station Gharghoda, District Raigarh (CG)

---- Applicant

Versus

Sharif Mohammad s/o Vazir Mohammad, Aged about 52 years,
R/o Sahupara, Police Station Gharghoda, District Raigarh (CG)

---- Respondent

For Applicant : Smt. M. Asha, Panel Lawyer
Respondent not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

16/02/2016

1. The instant Cr. Revision is preferred after 26 days of its limitation.
2. As maintainability of the instant Cr. Revision is also involved, looking to the merits of the case, the applicant is heard on I.A.No.1/2016, application for condonation of delay as well as on admission.
3. For the reasons mentioned in I.A.No.1/2016, this Court is of the view that delay of 26 days is bonafide in filing the instant Cr. Revision. Consequently, same is allowed. Delay is condoned.
4. So far as admission of the matter is concerned, on behalf of the applicant it is submitted that the trial Court had passed the impugned order in a cryptic manner without appreciation of the material available on record and the order is bad in law. Rejection of the application under Section 311 Cr.P.C. is bad in law and liable to be set aside. The trial Court has failed to appreciate the substance of examination of licencing

authority and District Magistrate is essential in case of evidence under the Arms Act. Hence, it is submitted that the petition may be allowed and by allowing the application under Section 311 Cr.P.C. permission be granted to adduce the evidence of District Magistrate through his Reader as a witness in the ends of justice and for appropriate adjudication of the case under the Special Case No.11/2013.

5. Learned counsel for the applicant though has not filed the copy of the entire charge sheet, but submitted that the same is available in the file and duly supported the grounds taken in the instant Cr. Revision and prayed that the revision may be allowed and relief as claimed may be granted to the applicant.

6. Perused the copy of the charge sheet.

7. From perusal of the entire copy of the charge sheet it appears that the charge sheet is filed only under the provisions of Section 20 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the NDPS Act). In the list of witnesses, Reader or the District Magistrate is not cited as witnesses. There is no sanction by the District Magistrate under Section 39 read with Section 3 of the Arms Act, 1959 filed along with charge sheet. The said country made pistol and cartridges were not deposited in the Malkhana as the property in the matter. In the Baramadgi Panchanama, it is mentioned that for the offence of Arms Act, separate proceeding is being initiated. Perusal of the entire material and the copy of the charge sheet, shows that the Court below has not committed any illegality or impropriety by rejecting the application under Section 311 Cr.P.C. for evidence of Reader or the District Magistrate. No document i.e. order sheet of the Criminal Court is submitted to demonstrate that there is order of any Criminal Court for the joint trial of a case under the NDPS Act and Arms Act. In absence of any order in

this behalf and any other material, the applicant failed to show that there is any order of joint trial. With the above facts, in the considered view of this Court, as the applicant failed to show any illegality or impropriety with the order passed by the trial Court. This Court is not inclined to take up the instant Cr. Revision for further hearing. The instant Cr. Revision filed with the above facts is not maintainable.

8. Consequently, the instant Cr. Revision is dismissed as not maintainable at the motion stage itself.

Sd/

(Chandra Bhushan Bajpai)

Judge