

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.1117 of 2016**

Hitesh Kumar Yadav S/o Late Jagdish Yadav aged about 24 years R/o village
Kolihamar Post Office and Police Station Gurur District Balod Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh through Station House Officer Police Station Gurur
District Balod Chhattisgarh

---- Respondent

For Applicant	: Shri Shivendu Pandya, Advocate.
For Respondent	: Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****05/10/2016**

1. The present application has been preferred under Section 482 Cr.P.C. challenging the order passed by the Additional Sessions Judge, Balod, Chhattisgarh in Criminal Revision No.15 of 2016 upholding the order of the Chief Judicial Magistrate, Balod in Criminal Case No.780 of 2014 rejecting the application under Section 311 Cr.P.C. moved by the Applicant/Accused.
2. Learned Counsel for the Applicant submits that it is a case where the Applicant is an Accused for the offence punishable under Sections 420 and 468 IPC and the matter is being tried before the Court of Chief Judicial Magistrate. According to the Learned Counsel for the Applicant, in a pending case before the trial Court, the Applicant and the complainant-Ved Kumar Sahu have resolved their grievance and the matter is settled by amicable settlement. In the light of settlement/compromise, the Applicant-Accused has already moved an application under Section 320(2) Cr.P.C., which is pending consideration before the Court below. According to the Learned Counsel for

the Applicant, the said witness complainant had already been examined by the Court on 26.2.2015, therefore, the question of compromise and settlement could not be asked. For this reason, application under Section 311 Cr.P.C was filed but got rejected against which he has preferred revision, which was also rejected leading to filing of the present Cr.M.P. under Section 482 Cr.P.C.

3. At this juncture, he further submits that the trial Court be directed to consider and decide the application under Section 320(2) Cr.P.C. which has already been filed before the Court below and in case the said application is decided in favour of the Petitioner, nothing further would remain to be adjudicated upon. The State counsel does not have any objection if the matter is disposed of to decide the application under Section 320(2) of CrPC filed by the Petitioner.

4. In view of the above, instant Cr.M.P. is disposed of without entering into the merits of the case with a direction to the trial Court to take up the application under Section 320(2) Cr.P.C. as early as possible and decide the same expeditiously and thereafter to proceed further with the trial, if required.

5. Accordingly, the CrMP stands disposed.

Sd/-
(P. Sam Koshy)
Judge