

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 376 OF 2015

Rajkumar Mishra, S/o Late Ganesh Prasad Mishra, aged about 45 years,
R/o Haldibadi, Chirmiri, Police Station Chirmiri, Tahsil Khadgawan, District
Koriya (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through Station House Officer, Police Station
Chirmiri, District Koriya (C.G.)
2. Dambru Behra (Ex. Mayor), Municipal Corporation Chirmiri, S/o Shri
Mohan Behra, aged about 45 years, R/o Domanhil, Police Station Chirmiri,
Tahsil Khadgawan, District Koriya (C.G.)

... Respondents

For Petitioner	:	Mr. Rajkumar Mishra, in person.
For Respondent 1	:	Mr. Ashish Shukla, Govt. Advocate.
For Respondent 2	:	Mr. J.A. Lohani, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/12/2016

1. The present petition under Section 482 of CrPC has been filed by
the Petitioner assailing the order dated 13.1.2015 passed by the Additional
Sessions Judge, Manendragarh in Criminal Revision No. 93 of 2013 and
other analogous revision petitions, whereby the revision petitions preferred
against the order dated 4.12.2013 passed by the Judicial Magistrate First
Class, Chirmiri in Criminal Case No. 379 of 2013, have been rejected.
2. The limited prayer made by the Petitioner, who is appearing in
person, is that the Judicial Magistrate First Class, Chirmiri while passing
the order dated 4.12.2013 held that the Respondent No.2 who was the
Mayor of Municipal Corporation, Chirmiri does not fall within the definition
of a Public Servant under the provisions of the Municipal Corporation Act.
He refers to the amendment made by the State of Chhattisgarh in the year
2005 wherein under Section 410 of the Municipal Corporation Act, the
word 'Mayor' also has been incorporated for the purpose of bringing the

officers as a Public Servant. According to the Petitioner, since the learned Judicial Magistrate First Class has not taken this amended provision into consideration while passing the order dated 4.12.2013, the entire order and the subsequent proceeding drawn would be bad in law and the same deserves to be set aside.

3. However, during the course of arguments, it is informed by the learned State Counsel as also by the learned Counsel for Respondent No.2 that the learned Magistrate subsequently in the light of the order passed by this Court in Criminal Misc. Petition No. 722 of 2015, decided on 21.10.2013, has ordered for treating the complaint of the Petitioner as a private complaint under Section 202 and has ordered for proceeding with the case as a private complaint. It is also submitted by the learned Counsel for the State that subsequently the matter now is fixed for recording of the evidence before the registration of the complaint. This aspect has not been disputed by the Petitioner.

4. In view of the fact that the matter is now fixed for the recording of the evidence of the complainant before registration of the complaint, this Court is of the opinion that the ends of justice would meet if the Petitioner is directed to raise all his grievances before the learned Magistrate at the time of recording of his statement. At the same time, it is also observed that the finding of the Judicial Magistrate First Class, Chirmiri, dated 4.12.2013, is bad in law to the extent that it holds the Respondent No.2 not to be a Public Servant, as Section 410 of the Municipal Corporation Act, as amended in the year 2005, clearly brings the Mayor also within the ambit of the Public Servant. Therefore, the said order to that extent is set aside/quashed.

5. The Petitioner shall be at liberty to raise all his grievances and also to bring all these facts before the learned Magistrate at the time of recording of his evidence before registration of the complaint.

6. The Criminal Misc. Petition stands disposed of with the aforesaid observations.

Sd/-
(P. Sam Koshy)
Judge

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