

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 499 of 2016**

- Poonamchand Agrawal S/o Late Lalchand Agrawal Aged About 48 Years R/o Behind Gandhi Ganj, Raigarh, Tehsil, Post & District Raigarh Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Superintend Of Police Raigarh Chhattisgarh
2. R. D. Project Through Its Director Sunil Kumar Agrawal S/o Ramdas Agrawal, R/o Chandani Chowk Raigarh Chhattisgarh
3. Sub - Divisional Magistrate Raigarh, District Raigarh Chhattisgarh
4. Thana Incharge Police Station, Jute - Mill, Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Harsh Wardhan, Advocate.
For Respondents No. 1,3 &4	:	Ms. M. Asha, Panel Lawyer
For Respondent No. 2	:	Mr. Amit Singh, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****29/08/2016**

1. The present Petition has been filed under the Provisions of Section 482 of the Cr.P.C. seeking for quashment of the impugned order dated 05.02.2016 passed by the Sessions Judge, Raigarh in Criminal Revision No. 64/2015.
2. Vide the said impugned order the Revisional Court has rejected the Revision Petition preferred against the order dated 27.07.2015 passed by the Sub Divisional Officer, Raigarh in a proceeding drawn under Section 145 of the Cr.P.C. registered as Criminal Case No.

10/2014.

3. Vide the order dated 27.07.2015 the Sub Divisional Officer, Raigarh has rejected the application moved by the present Petitioner wherein he has sought for closure of the entire case on the ground that the dispute in respect of the disputed property does not survive any further.
4. Learned Counsel for the Petitioner submits that the Magistrate ought to have taken note of the fact that the entire dispute arose because of the blockade created by Respondent No.2 to the ingress and egress of the property in possession of the Petitioner. It was under those instance, the proceeding under Section 145 of the Cr.P.C. was initiated. Now the Government authorities is said to have removed the blockade so created by the Respondent No. 2 on the property and the ingress and egress to the property of the Petitioner is now clear. According to the Petitioner as such there is no further dispute remaining to be adjudicated upon the matter should have been closed by the Magistrate without further proceedings. Therefore, the rejection of the said application on part of the Magistrate and ordering for listing the matter for recording of the evidence of the parties was bad in law.
5. It is also contended that against the said order dated 27.07.2015 he had preferred a Revision Petition and the Revisional Court has also in a mechanical manner rejected the Revision Petition. The Revisional Court ought to have considered the fact that there was no further necessity of proceeding with the matter as the dispute stood resolved. The Petitioner was not facing any blockade to the ingress and egress to the property in his possession.

6. Learned Counsel for Respondent No. 2 however opposing the Petition submits that the present Petition under Section 482 of the Cr.P.C. is not sustainable for the reason that no prejudice whatsoever would have been caused to the rights of the Petitioner in any manner by the order dated 27.07.2015 passed by the Sub Divisional Officer, Raigarh. According to the Counsel once a proceeding has been initiated by the authorities invoking the powers under Section 145 of the Cr.P.C. it is the duty of the concerned Magistrate to take the proceedings to a logical conclusion and the conclusion could be arrived at only after the evidence on either side is recorded. In absence of evidence on either side it would be difficult for the authorities concerned to proceed further to reach to a logical conclusion, and thus prayed for rejection of the Petition.
7. The similar arguments have also been advanced by the Counsel for the State.
8. Considering the rival contentions put forth by the parties and on perusal of the Record it would appear that there was in fact at the initial stage some dispute between the parties so far as possession of the said property is concerned. There was also some blockade said to have been created by Respondent No. 2 to the ingress and egress to the property in possession of the Petitioner. There was complaint and counter complaint by both the parties to the civil authorities and taking into consideration the continuing dispute between the two groups the authorities concerned had initiated proceedings under Section 145 of the Cr.P.C. If the parties have initiated a proceeding under Section 145 of the Cr.P.C. it would be the duty of the authorities concerned to take it to a logical conclusion

and close the matter by passing an appropriate order. It is also necessary for the Magistrate to record evidence on either side in respect of their respective stand. Therefore, in the opinion of this Court the Magistrate concerned has not committed any infirmity or illegality while rejecting the application of the Petitioner for closing the case. Even otherwise no prejudice has been caused to the Petitioner in any manner. Further whatsoever submissions the Petitioner intends to make in the present Petition and that he has also made before the Revisional Court, he has all the liberty to raise it by way of leading proper evidence in this regard before the authority concerned at the time when he is granted opportunity to lead evidence.

9. Thus, in the opinion of this Court no interference is required to be done in the impugned order however it is expected that the Magistrate concerned would decide the proceedings under Section 145 of the Cr.P.C. as expeditiously as possible giving sufficient opportunity of hearing to both the parties for leading evidence in respect of their contentions.

10. With the aforesaid observations the instant Cr.M.P. is disposed of.

**Sd/-
(P. Sam Koshy)
JUDGE**