

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1134 of 2016**

- Nilmani S/O Mitrabhanu Aged About 62 Years Profession Kotwar R/O Village Tinmini Tahsil Pusor, District Raigarh, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Thana Moharir, Police Thana Pusor, District Raigarh, Chhattisgarh.
2. Nriplal Gupta Alias Nripmani S/O Abhiram Gupta Aged About 65 Years R/O Village Reruma Post - Bakaruma Tahsil Dharamjaigarh District Raigarh, Chhattisgarh.

---- Respondents

For Petitioner
For State

Shri Manoj Paranjpe, Advocate
Shri. Satish Gupta, Government Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****07.10.2016**

1. The present Petition under Section 482 Cr.P.C. has been filed assailing order dated 30.07.2016 passed by the 3rd Additional Sessions Judge, Raigarh passed in Criminal Revision No. 73/2016.
2. Challenging the impugned order learned Counsel for the Petitioner submits that the Court below has not properly appreciated the fact that the allegation under Section 294 IPC which has been leveled against the Petitioner accused is not made out at all.

3. According to the Counsel for the Petitioner Section 294 IPC requires an offence to be committed in the public place whereas the incident in the present case as alleged to have occurred is not a public place.
4. In the opinion of this Court the matter can be adjudicated upon only after recording of the evidence and it is the fact which would be appreciated only on the basis of the evidence which would be led by the complainant to show whether it was public place or not.
5. This Court in exercise of its power under Section 482 Cr.P.C. can not go into the issue whether the incident was occurred at public place or not, as admittedly it is reflected from the statement of the complainant that the incident took place in an agricultural field.
6. Thus, without entering into the merits of the case, this Court is of the opinion that no strong case has been made out calling for an interference with the findings arrived at by the two Courts below.
7. The present Cr.M.P. being devoid of merits, the same deserves to be and accordingly rejected.

Sd/-

**(P. Sam Koshy)
JUDGE**