

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1255 of 2016**

- Rajendra Patni, aged about 50 years, S/o Late Shri M.M. Patni, R/o Plot No.2, Industrial Area, Dhamdha Road, Durg, Tahsil and District Durg, Chhattisgarh

---- Petitioner**Versus**

- Chander J. Kukreja, aged about 47 years, R/o Gurunanak Nagar, Near Kartar Bhawan, Durg, Tahsil and District Durg, Chhattisgarh

---- Respondent

For Petitioner	:	Shri Prateek Sharma, Advocate.
For Respondent	:	Smt. Fouziya Mirza, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****25/07/2017**

1. Heard.
2. It is submitted by learned counsel for the petitioner that the petitioner filed a complaint before the trial Court seeking for trial against the respondent by taking cognizance for offence under Sections 406, 417, 418, 419 and 420 of Indian Penal Code (for short 'IPC'). The complaint of the petitioner was rejected vide order dated 28.2.2015 **Annexure A-2**. Petitioner preferred a revision which was heard by 5th Additional Sessions Judge, Durg, Chhattisgarh in Revision Petition No.46/2015 and decided by order dated 3.9.2015. The revision was rejected with observation that the order of the trial Court is not a speaking order which has been passed without mentioning any reason and the case was remanded to be considered afresh.
3. It is further submitted that consequent to the order of revisional Court, the trial Court has considered on taking cognizance in the complaint by order dated 20.6.2016 **Annexure A-4** and the complaint of the petitioner was rejected. This order was again challenged before the Court of 5th Additional Sessions Judge, Durg in Revision Petition No.175/2016 which has been decided on 31.8.2016 holding that as the first revision petition in the same matter has been rejected on

merits, hence, the second revision petition is not maintainable and for this reason, the revision petition was dismissed.

4. It is submitted by the counsel for petitioner that the order impugned is perverse and contrary to the material on record. The revisional Court ought to have decided this revision petition on merits and should have come to a conclusion with respect to the order passed by the trial Court dated 20.6.2016, whether it is a correct order or erroneous order, not doing so revision has been dismissed only on this ground that first revision has been decided on merits by order dated 3.9.2015 because of which the second revision is not maintainable.
5. Heard the parties and perused the material on record.
6. The first revision petition No.46/2015 decided by order dated 3.9.2015 clearly shows that the order of the trial Court dated 28.2.2015 was the impugned order and the finding has been recorded that the order being not a speaking order, has been set aside and the trial Court was directed to reconsider and pass order in accordance with law. It was only on direction of the revisional Court that the subsequent order dated 20.6.2016 has been passed again by the trial Court dismissing the complaint of the petitioner. The impugned order has been passed giving all the details of the previous stages of the complaint, and the matter in revision and the conclusion has been drawn that the second revision petition is not maintainable because the earlier petition was decided on the same ground.
7. It is to be observed by virtue of the order dated 3.9.2015 passed in Revision Petition No.46/2015, the trial Court was obliged to reconsider and passed the order dated 20.6.2106, hence, the petitioner got entitlement to challenge the order dated 20.6.2016 under the revisional jurisdiction of the Sessions Court. On perusing the impugned order, it appears that the revisional Court below has failed to exercise the revisional jurisdiction by simply mentioning in the order that the matter has been decided in the earlier revision petition, but this was not the case as the order impugned in the second revision petition was a different one passed by the trial Court on merits, on which it was required from the revisional Court to consider on the grounds giving specific reasoning and coming to a specific conclusion with respect to the order impugned in the revision by allowing it or rejecting it.
8. With the above observations, this petition deserves to be allowed, hence, the petition is allowed. The case is remanded back to the revisional Court with a

direction to consider the revision petition on merits and pass orders in accordance with law. It is made clear that the trial Court should not be prejudiced by observations made in this order and the learned trial Court shall decide the petition on its merit.

9. Accordingly, the petition stand disposed off at the motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE

Nisha