

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 1194 of 2015**

- Dhanesh Dewangan S/o Shri Rajendra Prasad Dewangan Aged About 41 Years  
Occupation - Advocate, R/o Village Kharora, P.S. Kharora, District - Raipur  
Chhattisgarh.

**---- Petitioner**

**Versus**

1. Arvind Dewangan & Anr. S/o Lochan Dewangan Aged About 43 Years R/o Village  
Kharora, P.S. Kharora, District Raipur Chhattisgarh.
2. State Of Chhattisgarh, Through District Magistrate, Collector, District Raipur  
Chhattisgarh.

**---- Respondent**

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|---------------------------|---|-----------------------------------|
| For Petitioner            | : | Shri Prakash Tiwari, Advocate.    |
| For Respondent No.1       | : | Shri Rishikant Mahobia, Advocate. |
| For State/respondent No.2 | : | Shri Anil Pandey, Govt. Advocate. |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**18/07/2017**

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought challenging the impugned order passed by 6<sup>th</sup> Additional Sessions Judge, Raipur, District Raipur in Criminal Revision No.239/2014 dated 28.05.2015 affirming the order of the trial Court and dismissing the revision petition.
2. Petitioner brought a complaint against the respondent making submissions of the commission of offences and praying for taking cognizance under Sections 500 and 193 of Indian Penal Code (for short 'IPC') against the respondent. The trial Court of Judicial Magistrate Class-1, Raipur has by order dated 07.05.2014 taken cognizance for trial against the respondent for offence under Section 500 of IPC only and has refused to take cognizance for trial of offence under Section 193 of IPC. This order was challenged in the revision petition before the 6<sup>th</sup> Additional Sessions Judge, Raipur which has been dismissed.

3. It is urged in this petition that the trial Court ought to have taken cognizance for trial of offence under Section 193 of IPC as there had been material in the evidence produced in the inquiry of complaint, hence, both the Courts below have erred the passing orders, hence, it is prayed that petition be allowed.
4. It is submitted by the counsel for petitioner that on perusing the order of the trial Court **Annexure-A-3**, it is very clear that the Court has refused to take cognizance for trial of offence under Section 193 of IPC only mentioning that the Court did not have the jurisdiction and the revisional Court has erroneously confirmed this finding of the Court below.
5. Learned counsel for State has opposed the petition and the document submitted in this behalf.
6. The legal requirement for taking cognizance in case of offence under Section 193 of IPC, is that Section 195(1)(b)(i) of Cr.P.C. provides that for the offences in which the offence under Section 193 of IPC is included, Court shall not take cognizance for trial of such offence, if, the complaint is not filed by the Court concerned or by officer authorized by the Court concerned or by the Court superior to the Court before which the offence of giving a false evidence was committed. This legal requirement cannot be bypassed. Petitioner being a private person can not pray to invoke the cause of action which is just not available to him. Hence, for these reasons, this is not a fit case to be admitted.
7. Accordingly, the petition is dismissed at the motion stage.

Sd/-  
**(Rajendra Chandra Singh Samant)**  
JUDGE