

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 131 of 2017**

1. Pardeshi S/o Shri Kejuram Aged About 57 Years R/o Village-
Magarghata, Police Station- Nandghat, District Bemetara,
Chhattisgarh.
2. Smt. Mongara Bai W/o Shri Pardeshi Aged About 54 Years R/o
Village- Magarghata, Police Station- Nandghat, District Bemetara,
Chhattisgarh **---- Petitioners**

Versus

1. Smt. Nimmi W/o Shri Mukesh Aged About 24 Years Caste-
Mehara, R/o Village- Magarghata, Police Station- Nandghat,
District- Bemetara, Chhattisgarh.
2. State Of Chhattisgarh Through The District Magistrate, District-
Bemetara, Chhattisgarh **---- Respondents**

For Petitioners	:	Mr. Samir Singh, Advocate
For State	:	Mr. B. Gopa Kumar, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****31/01/2017**

Heard.

1. This petition is directed against order dated 22.09.2016 passed in revision before the Sessions Judge, Bemetara, by which, while setting aside order dated 05.08.2015 of the Magistrate, direction has been issued for proper exercise of jurisdiction.
2. Learned counsel for the petitioners argued that once the Revisional Court was satisfied that order dated 05.08.2015 is unsustainable in law, there was no occasion for the Revisional Court to direct the Magistrate to again take cognizance in the matter.
3. The submission is based on apprehension, which is not borne out from the order, that there is direction to take cognizance.

4. A perusal of order dated 05.08.2015 of the Magistrate shows that the order suffers from inherent contradiction.

5. Learned Sessions Judge having found that the order suffers from such apparent error set aside the same. The order of the Revisional Court is only to examine the matter and not a direction to take cognizance.

6. Where a complaint is filed, after taking preliminary statement of the complaint and witnesses, the Magistrate is obliged under the law to apply his mind and to find out whether on the basis of the complaint, preliminary statement and other material on record, a prima facie case is made out so as to warrant taking a cognizance of offence against the proposed accused. Learned Magistrate having completely derelicted from his duty of examination, the Revisional Court rightly interfered in the matter and sent the matter for due and proper consideration of material on record, due application of mind and then to take a decision whether a case for taking cognizance is made out or not. Subject to aforesaid clarification, I am not inclined to interfere with the order passed by the Sessions Judge.

7. With the aforesaid observations, the petition is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge