

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 482 of 2014**

- Ajay Kumar Agrawal S/o Brijmohan Agrawal Aged About 37 Years R/o Daanipara, Raigarh, Tah. And Distt. Raigarh C.G. Through Brijmohan Agrawal, Power Attorney, S/o Late Shri K.C. Agrawal, Aged 63 Years, R/o Danipara, Raigarh, Distt. Raigarh C.G.

---- **Petitioner****Versus**

- Mohammed Gulfam S/o Mohammed Jamiruddin Aged About 34 Years R/o Business And Transporting, R/o Near Chandmari Electric Sub Station, Raigarh C.G.

---- **Respondent**

For Petitioner : Shri Chandresh Shrivastava, Advocate.

For Respondent : Shri Manoj Kumar Sinha, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****07/09/2017**

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought with a prayer to quash the impugned order dated 23.04.2014 passed by the Additional Sessions Judge (FTC), Raigarh in Criminal Revision No.H 31/2014 and the order of the revisional Court dated 30.10.2013 passed in Criminal Case No.1644/2012.
2. It is submitted that petitioner is complainant in the case against respondent for offence under Section 138 of Negotiable instruments Act, 1881. Respondent/accused filed an application under Section 91 of Cr.P.C. praying for production of registration and insurance papers of the

vehicle, which was the subject matter of transaction between the parties. By order dated 30.10.2013 trial Court allowed the application, and has directed the petitioner to file the original registration papers of the vehicle concerned before the Court. This order was challenged by Revision Petition No.H 30/2014 before the Court of Additional Sessions Judge, Raigarh, by order dated 23.4.2014 the revision petition has been dismissed. Hence, this petition.

3. It is submitted that petitioner and respondent entered into an agreement on 22.12.2011 for the sale of Hydraulic Tractor Trolley and a tractor, in the clause-12 of the agreement, the condition was clearly agreed between the parties that the purchaser that is the respondent/accused shall get the registration and insurance done of the vehicle purchased by him. This by itself implies that the vehicle concerned was not registered and insured at the time, when the transaction was made and as the petitioner is dealer for the sale of the vehicles, there is no requirement for him to keep the vehicles in registered and insured conditions. Hence, petitioner is unable to produce the documents as ordered by the trial Court.
4. Learned counsel for the respondent has opposed the petition and submitted that the subject matter of the transaction between petitioner and respondent was never transferred, hence, he was not in a position to insure and register the vehicle concerned.
5. Heard both the parties and perused the material on record.
6. After due consideration, it appears that petitioner has made a clear statement that he is not in a possession of the document ordered to be produced by trial Court, hence, the case before the trial Court cannot remain held up because of the non-compliance of an impossible task, as

ordered by the trial Court. Therefore, in the interest of justice the order of the trial Court which has been upheld by the revisional Court, requires to be interfered with. Hence, the petition is allowed at the motion stage and the orders passed by the Courts below are set aside.

7. Submission made by counsel for respondent can be raised as a ground of defence before the trial Court, which may be considered by the trial Court in accordance with law.
8. Accordingly, the petition stands disposed off.

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