

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 547 of 2016

- Radhekant Modi @ R.K.Modi @ R.K.Bagadiya @ R.K.Agrawal S/o Radhe Gopal Aged About 38 Years R/o Near Nutan Kisan Rice Mill, Police Station Aazd Chowk, Civil & Revenue District Raipur, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Ganj, District Raipur, Chhattisgarh.

---- Respondent

For Petitioner	:	Smt. Renu Kochar, Advocate.
For State/respondent	:	Shri Neeraj Sharma, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

03/08/2017

Heard.

1. **Admit.**
2. This petition has been brought seeking interference under Section 482 of Cr.P.C. with the order passed by the Court of Additional Sessions Judge (Special), Raipur, Chhattisgarh in Criminal Revision No.82 of 2016 by which the order of the trial Court rejecting the application of petitioner under Section 328/330 of Cr.P.C. was upheld.
3. It is submitted that petitioner is suffering from psychiatric/mental disorder since 2006 and that disorder is still continuing because of which he is unable to enter into defence. Submitting the documents of his treatment by Psychiatrist, application under Sections 328 & 330 of Cr.P.C. was moved before the trial Court, which was rejected vide order dated 29.1.2016 (**Annexure-A/4**), against which revision No.82/2016 was preferred before the Court of Additional

Sessions Judge (Special), Raipur, Chhattisgarh, which was decided on 04.03.2016 and the order of the trial Court was upheld.

4. It is submitted by the learned counsel for the petitioner that petitioner is still under the mental/psychiatric disorder. The report called by the Court and submitted by the Jail Authority dated 18.12.2015 itself speaks that there is requirement of observation for long period to give a finding with respect to sufferance of mental disorder by any person. It is not disputed that petitioner had been treated by the Psychiatrist and some ECT (Electro Convulsive Therapy) was also proposed in the same report. Looking to these observations of the medical expert, the trial Court should have held that petitioner is mentally unsound, hence, unable to enter into defence. He prays that the order may be passed accordingly.
5. Learned counsel for the State has opposed the petition and submissions made by petitioner and submits that as per the report submitted by the medical expert, symptoms of Active Psychiatric Illness were not found in the petitioner at the time of examination, hence, there is no scope of interference in the orders passed by the Courts below.
6. Both the parties are heard and perused the documents on record.
7. According to the counsel for the petitioner, the petitioner is continuously under the effect of Psychiatric Illness and the report submitted by the doctor cannot be said to be final, as it was observed therein that a long observation was required to give a clear finding with respect to mental condition of the deceased. In these circumstances, it would be appropriate to dispose off the petition with a suitable direction.
8. In view of above, this petition is allowed at the motion stage itself and the order

dated 29.1.2016 passed by the Court below is hereby set aside. The petitioner is directed to move fresh application before the trial Court concerned and on making such application, the Court below shall call for the report of the Psychiatrist as to the mental condition of the petitioner herein after his examination by the medical experts in the light of observations made as per requirement. On receipt of such report, the Court below shall proceed to decide the application filed by the petitioner, in accordance with law, without being influenced by the observations made this order.

9. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE