

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1125 of 2017**

- Manish Rathore S/O Shri Mewalal Rathore aged about 35 years R/O Qr. No. S.E.557, C.S.E.B. Colony, Korba (East), Tehsil and Civil and Revenue District Korba (C.G.)

---- Petitioner**Versus**

- State of Chhattisgarh, through Station House Officer, P.S. Darri, Civil and Revenue District Korba (C.G.)

---- Respondent

For the Petitioner	: Shri Sanjay Kumar Agrawal, Advocate
For Respondent/ State	: Shri Aashish Shukla Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****01.09.2017**

(1) Heard.

(2) Counsel for the petitioner submits that in the case against the petitioner the trial is pending for recording of prosecution evidence in which the petitioner has filed an application to stay the proceedings till disposal of the application under Section 323 of Cr.P.C. filed by him in the counter case in which he is complainant which is yet to be decided by the trial Court and the proceeding in the case has not been stopped.

(3) It is submitted that on the basis of complaint made by the petitioner that a counter case arising out of the same incident is being prosecuted against the accused persons who are the complainant in the case against the petitioner. The case is being prosecuted for the offence under Sections 232, 506 & 34 of IPC.

(4) The petitioner has moved an application under Section 323 of IPC before the Court of Judicial Magistrate First Class, Katghora that the offence under Section 307 of IPC is also made out which is a Sessions Trial. Hence, the case may be committed so that both the counter cases are taken up together. However, the application has not been decided by the trial Court.

(5) Counsel for the State has opposed the grounds raised in the petition and it is submitted that the case may be disposed off with a direction to the trial Court to pass an order on the application made by the petitioner for committal of the case in which he is complainant.

(6) Heard counsel for both the parties and perused all the documents on records.

(7) Considering the facts and circumstances of this case and going by the statement made by the counsel for the petitioner that the criminal case No.3200/15, State Vs. Raju @ Rajendra and Others is a counter case against the petitioner, that is pending as Sessions trial No.47/16, before the Court of Additional Sessions Judge Katghora, it is directed that the learned Judicial Magistrate First Class Katghora shall consider the application under Section 323 of Cr.P.C. presented by the petitioner as soon as possible, preferably within 15 days from the date of receipt of a copy of this order. If the petitioner feels aggrieved by any order passed by the trial Court, he shall have liberty to move this Court again.

(8) Accordingly, this petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge