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**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 997 of 2016**

- M. A. Iqbal S/o Late M.A. Rajjak Aged About 40 Years Mahamantri , Vidhyut Karmchari Sangh, R/o Gandhi Chowk, Chhotapara, Raipur, Tahsil & District Raipur, Chhattisgarh.

---- Petitioner

**Versus**

1. Indramani Patel S/o Radhelal Aged About 43 Years R/o Vidhyut Mandal Colony Gudhiyari, Raipur, Tahsil & District- Raipur, Chhattisgarh.
2. Shri Ravi Sahrma S/o G.L. Sharma Aged About 57 Years Posted As-Treasurer Of Vidyut Karmchari Sangh (Federation) R/o 656 Sunder Nagar, Raipur, District- Raipur, Chhattisgarh.
3. State of Chhattisgarh Through District Magistrate Raipur, Tahsil & District Raipur, Chhattisgarh.

---- Respondents

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|---------------------------|---|--------------------------------------|
| For Petitioner            | : | Shri V.C. Ottalwar, Advocate         |
| For Respondent No.1       | : | Shri J.D. Bajpai, Advocate           |
| For Respondent No.2       | : | Shri Keshav Dewangan, Advocate       |
| For Respondent No.3/State | : | Shri Ashish Shukla, GA for the State |

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****30/10/2017**

1. Heard.
2. The instant petition is against the order dated 19.03.2015, whereby the Sessions Court in a revision filed by the respondent has remanded the case to the JMFC to reconsider the statements, documents filed by the police, the enquiry report and has directed to pass an order whether to take cognizance or not.
3. The brief facts of this case would show that a complaint was filed initially by respondent No.1 Indramani Patel against the petitioner M. A. Iqbal before

the JMFC that certain illegal collection has been made from the members of the Vidyut Karmchari Sangh (Federation) and was not accounted for. On such complaint the JMFC by an order dated 20.11.2013 dismissed such complaint by holding that no case was made out. Against such dismissal of complaint, a revision was filed before the Sessions Judge by the respondent and the Sessions Judge by an order dated 11.09.2014 in a case bearing revision No.486/2013 again remanded the case for hearing afresh before the JMFC. After such remand, the JMFC again after examining the case dismissed the complaint filed by the respondent by order dated 13.10.2014. The said revision was again subject of challenge by the respondent before the Sessions Judge and the Sessions Judge by its order dated 19.03.2015 (Annexure A-8) has allowed the revision wherein dismissal order was set aside and the case was remanded back with a direction that the JMFC shall consider the statements, documents, the Police report and will reconsider the same about taking of the cognizance of the complaint. The Sessions Judge also observed that the trial Court shall take into consideration the observation made in that revision.

4. Learned counsel for the petitioner submits that in the Trade Union Act, every member has a right to complaint and the Registrar of the Union has the ultimate power to see as to whether any defalcation of the amount has been made or not and he is the only person who can file a complaint and may decide whether the complaint can be filed or not. He further submits that the parties hereto had subsequently arrived at a compromise before the Industrial Court and as such the order impugned was not immediately subject of challenge, therefore, the Court in this case may exercise the powers vested under Section 482 of the Cr.P.C.
5. Learned counsel for the respondents vehemently opposed the arguments

and would submit that it is not a case where the Court should exercise its extraordinary powers vested under Section 482 of the Cr.P.C. as apparently no illegality is manifest on the face of record and no revisional jurisdiction was availed. Therefore, the petition may be dismissed at the threshold.

6. Perused the order dated 19.03.2015, which is passed by the Sessions Judge, Raipur in CRR No.309/2014. Admittedly, the aggrieved party who is M. A. Iqbal has not filed the revision, instead has filed this petition under Section 482 of the Cr.P.C. making a prayer to exercise the power which is within the Court. The order of the court below dated 19.03.2015 would show that this order only remands the case for adjudication afresh by the JMFC while considering the facts, statements, documents and the police report which are existing in the case.
7. The petitioner herein if at all was aggrieved by such order could have availed the remedy of revision against such order instead this petition was filed on 27.08.2016 i.e. at a belated stage after the limitation period for revision had expired. Taking into such fact, this Court is not convinced to exercise its power under Section 482 of the Cr.P.C. apparently if the petitioner has failed to take its remedy which was available to him under the law and has preferred this petition in order to by pass the period of limitation of filing a revision. Therefore, the powers vested under Section 482 of the Cr.P.C. cannot be pressed into motion in facts of this case.
8. Consequently, taking into consideration facts of this case, it appears that no prejudice has been caused to the petitioner so as to invoke the extraordinary jurisdiction of this Court. In a result, the petition has no merits. It is accordingly dismissed.

Sd/-  
Goutam Bhaduri  
Judge