

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 869 of 2017**

- Ramesh Yadav S/o Rampratap Yadav Aged About 37 Years R/o Sattipara Behind Collector Office Ambikapur, Police Station-Gandhi Nagar District-Surguja Chhattisgarh

---- Petitioner**Versus**

1. Namo Narayan Singh S/o Ram Janam Singh Aged About 32 Years Occupation Sugarcane Regional Assistant,
2. Rajesh Kumar Sharma S/o Vishnu Prasad Sharma, Aged About 25 Years Occupation Cane Yan Supervisor,
3. B. P. Singh S/o Lt. Shri Subedar Singh Aged About 64 Years Occupation Assistant Cane Yan
4. Anuj Singh S/o Shri Shiv Shankar Singh Aged About 32 Years Occupation Sugarcane Regional Assistant

All are R/o Residencial Premises Maa Mahamaya Sahkari Shakkar Karkhana Maryadit Ambikapur Kerta Shakkar Factory, Police Out Post Khadgawna Police Station Pratappur District-Surjapur Chhattisgarh

---- Respondents

For Petitioner : Ms. Neha Verma, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****27/02/2018**

1. The instant petition is against the order dated 23.05.2017 passed by the Additional Sessions Judge, District Surajpur in Criminal Revision No.03/17, whereby the order dated 11.01.2017 passed by the JMFC, Pratappur was affirmed.
2. Learned counsel for the petitioner would submit that the petitioner is involved in a case under Section 307 IPC, which is pending before the

Sessions Judge and one more case is pending against the complainant under Section 323 IPC. The date and time of incident of both the cases are same, therefore, the case pending before the JMFC should have been transferred to the Court of Session Judge, wherein the petitioner was accused. She would further submit that the evidence of both the cases since was at the same time, therefore, common evidence should be adduced and the right of evidence and the right of defense can be placed before the Court. Consequently, the case which is pending before the JMFC, Pratappur against the respondent should have been transferred to the Court of Sessions.

3. Perusal of the document would show that the incident was reported to be of 24.03.2016 and first it happened at 2 pm, wherein the petitioner was assaulted whereby offence under Section 323 IPC was registered against respondents. Subsequently, on the same date at about 4 pm i.e. after two hours the petitioner reverted back and went to assault the complainant and assault was caused by way of a hammer thereby case under Section 307 IPC was registered. Thereby, the first incident which happened with the petitioner at 2 pm for which complaint was filed and case under Section 323 I.P.C. was registered against the others. Subsequent incident the petitioner has committed with the victim was at 4 pm. Prima facie, it cannot be stated that both the incidents happened at the same time and both the cases can be consolidated and heard together.
4. In view of the above, I do not find any merit in this case. Accordingly, it is dismissed.

Sd/-
Goutam Bhaduri
Judge