

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1120 of 2017

1. Ghasi Ram Agrawal, son of Shriram Agrawal, aged about 63 years,
2. Shriram Agrawal, son of Mukhram, aged about 84 years,
Both R/o Ward No.4, Main Road Saraipali, P.S. and Tahsil Saraipali,
District Mahasamund, Chhattisgarh

---- Applicants

versus

Sanjay Sharma, S/o Dharmaveer Sharma, through Geeta Bhawan
(President) Saraipali, P.S. and Tahsil Saraipali, District Mahasamund,
Chhattisgarh

--- Respondent

For Applicants	:	Shri Shikhar Sharma, Advocate
For Respondent	:	Shri Sanjay Agrawal, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

27.6.2018

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. This revision has been preferred against the order dated 30.8.2017 passed by the Additional Sessions Judge, Saraipali, District Mahasamund in Criminal Revision No.11 of 2017, whereby the Learned Additional Sessions Judge has allowed the revision filed by the Respondent herein and set aside the order dated 19.5.2017 passed by the Sub-Divisional Magistrate, Saraipali, District Mahasamund in Criminal Case No.198 of 2016 and remanded the matter to the Sub-Divisional Magistrate for passing a fresh order in accordance with law.
3. On 29.9.2016, an application under Section 133 of the Code of Criminal Procedure was filed by the Respondent herein before the Sub-Divisional Magistrate, Saraipali, wherein it has been

mentioned that the Applicants herein have encroached the drainage which is in use of public causing them inconvenience. After making inquiry, vide order dated 19.5.2017, the Sub-Divisional Magistrate rejected the said application of the Respondent. Against this order of rejection, a revision, being Criminal Revision No.11 of 2017 was preferred by the Respondent before the Additional Sessions Judge. Learned Additional Sessions Judge, after hearing the parties, has allowed the revision and set aside the order dated 19.5.2017 passed by the Sub-Divisional Magistrate on the ground that the Magistrate has not given his finding regarding public nuisance. The Additional Sessions Judge has remanded the matter to the Sub-Divisional Magistrate to decide the same afresh.

4. I have heard Learned Counsel appearing for the parties and perused the record with due care.
5. A bare perusal of the order dated 19.5.2017 passed by the Sub-Divisional Magistrate makes it clear that it is not a speaking order. There is nothing in the order to show that any discussion was made in the order regarding the public nuisance. Therefore, the Additional Sessions Judge has rightly remanded the matter to the Sub-Divisional Magistrate for fresh decision.
6. I find no merit in the instant revision. It is, therefore, dismissed.
7. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge