

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 365 of 2017**

1. Devendra Kumar Sahu, Age about 40 years, S/o Shri Hriday Lal Sahu,
2. Jainendra Kumar Sahu, Age about 48 years, S/o Shri Hriday Lal Sahu,
3. Hriday Lal Sahu, Aged about 68 years, S/o Late Shri Gunikram Sahu,
4. Smt. Panchwati Sahu, Age about 65 years, W/o Hriday Lal Sahu,

All R/o Vikas Nagar, Gudhiyari, P.S. - Gudhiyari,
District Raipur (C.G.) M- 9584610401.

-----Petitioners/accused

Versus

1. Smt. Varlaxmi Sahu, Age about 38 years, W/o Shri Devendra Kumar Sahu, R/o Through K. Padma Sahu, R/o Through K. Padma Rao, Near Vodaphone Tower, Vikas Nagar, Gudhiyari, P.S. - Gudhiyari, District - Raipur (C.G.)
2. State of Chhattisgarh, Through District Magistrate, Raipur, District - Raipur (C.G.)

....Respondents

For Petitioners	: Mr. Yogesh Pandey, Adv.
For Respondent NO. 1	: Mr. Pushpendra Kumar Patel, Adv.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/12/2019

(1) By the impugned order dated 03.10.2016, Additional Sessions Judge, Raipur has dismissed the criminal revision preferred by the petitioners against the order taking cognizance holding it to be interlocutory order, against

which instant petition under Section 482 of the Cr.P.C. has been preferred.

(2) I have heard learned counsel appearing for the parties and perused the impugned order with utmost circumspection.

(3) The question for consideration is whether against the order taking cognizance is interlocutory order or it is a final order, against which the revision would lie ?

(4) Issue involved in this case is no longer *res integra*, and the same is decided finally by this Court in the matter of **Sant Kumar Shukla Vs. Movin & another**¹, in which it has been held as under :-

"7. The learned revisional Court has completely misdirected itself in coming to the conclusion that the revisional jurisdiction against the order of issuing process is barred under Section 397(2) of the CrPC, in view of the dicta of the Surepeme Court in the case of **Adalat Prasad v. Rooplal Jindal**². In the case of **Dhariwal Tobacco Products Limited and others Vs. State of Maharashtra and another**³, the judgment in the case of **Adalat Prasad** (supra) was explained by the Supreme Court, in following words -

"8. In fact in *Adalat Prasad v. Rooplal Jindal*, to which reference has been made by the learned Single Judge of the Bombay High Court in *V.K.Jain*, this Court has clearly opined that when a process is issued, the provision of Section 482 of the Code can be restored to. It may be true, as has been noticed by the High Court that thereunder availability of

1 2011 (4) C.G.L.J. 601

2 2004 (7) SCC 338

3 2009 (2) SCC 370

appellate or revisional jurisdiction of the High Court did not fall for its consideration but in our considered opinion it is wholly preposterous to hold that *Adalat Prasad* (Supra) so far as it related to invoking the inherent jurisdiction of the High Court is concerned, did not lay down good law. The High Court is saying so did not only read the said judgment in its proper perspective : it misdirected itself in saying so as it did not pose unto itself a correct question."

8. The upshot of above discussion is that the impugned order of the learned revisional Court declining to exercise its jurisdiction on the ground that no revision is maintainable, in view of the bar under Section 397 (2) of CrPC, is illegal and unsustainable in law. The Court below has failed to exercise jurisdiction vested in it by law.

(5) In view of the aforesaid legal analysis, the impugned order dated 03.10.2016 is set aside. The matter is restored to the file of Additional Sessions Judge, Raipur for hearing and disposal in accordance with law on its own merit .

(6) The Cr.M.P. is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-

