

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 376 of 2012**

Ramdas Goyal, son of Shri Gulabchand Goyal, aged 69 years, Ujala Rice Mill,
Paragaon, Nawapara, Rajim, District Raipur (C.G.)

----Applicant

Versus

1. Neelkanth Narayanlal Di. Ghore, Tehsildar-Gondiya, Maharashtra.
2. The Tehsildar, Gondiya, Tehsil Office Gondiya, Maharashtra.
3. State of Maharashtra, through the Collector, Gondiya (Maharashtra)
4. State of Chhattisgarh through the Collector, Raipur (C.G.)

---- Respondents.

For Applicant	: Shri Sameer Uraon, Advocate.
For Respondents No.1 & 2	: Shri Punit Ruparel, Advocate.
For Respondent No. 4	: Smt. Ashtha Shukla, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board**

02/04/2019

(1) The applicant filed a complaint against respondent No. 1 herein for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (henceforth, "NI Act, 1881"), which was dismissed by the Judicial Magistrate, First Class, Raipur for want of sanction under Section 197 of the Code of Criminal Procedure (henceforth, "Cr.P.C."). The applicant preferred criminal revision there-against. The Revisional Court has also dismissed the revision by affirming the order of JMFC, Raipur, against which, instant criminal miscellaneous petition has been preferred.

(2) Shri Sameer Uraon, learned counsel appearing for the applicant would submit that no sanction under Section 197 of the Cr.P.C. was required at all, therefore, both the courts

below have committed illegality in dismissing the complaint made by the petitioner at the cognizance stage.

(3) Shri Punit Ruparel, learned counsel appearing for respondents No. 1 & 2 would support the impugned order.

(4) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also went through the record with utmost circumspection.

(5) The trial Court has clearly held that since offence is alleged to have been committed by respondent No.1, while discharging his official duty, therefore, prior sanction under Section 197 of the Cr.P.C. was required before taking cognizance, which has been affirmed by the revisional Court. Thus, the concurrent finding recorded by both the courts below that sanction under Section 197 of the Cr.P.C. was required before taking cognizance against respondent No. 1 as the offence is said to have been committed by him while discharging his official duty is a finding of fact based on material available on record and I do not find any illegality or perversity in the same warranting interference under Section 482 of the Code of Criminal Procedure, 1973.

(6) Accordingly, the Cr.M.P., being devoid of merit, is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge