

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 1424 of 2019

1. Tikendra Kumar Sahu @ Sanjay S/o Kapileshwar Prasad Aged About 34 Years Occupation Computer Operator, Nagar Nigam, Rajnandgaon, District Rajnandgaon Chhattisgarh

---- *Petitioner**Versus*

1. Smt. Purnima Sahu W/o Tikendra Kumar Sahu @ Sanjay Aged About 33 Years Occupation Shiksha Karmi Grade-I, Maharani Laxmi Bai Higher Secondary School, Rajnandgaon, R/o Budhwaripara, Ward No. 13, Dongergarh, District Rajnandgaon Chhattisgarh.
2. Kapileshwar Prasad S/o Kushuram Sahu Aged About 63 Years
3. Smt. Bed Bai W/o Kapileshwar Prasad Aged About 58 Years

No.2 & 3 are R/o Sagarpara, Ward No. 37, Nagar Nigam Staff Quarter, Rajnandgaon Chhattisgarh

At Present R/o Village Pendry, Ward No. 22, Near Talab Gouthan, Tahsil And District Rajnandgaon Chhattisgarh.

---- Respondent

 For Petitioner

 Shri N.K. Chhatterjee, Advocate

Order On Board
By
Prashant Kumar Mishra, J.
26/06/2019

1. The trial Court passed an order on 21-12-2018 discharging the accused persons from the charge under Section 498-A of the Indian Penal Code (for short 'the IPC'). The said order has

been set aside by the learned Additional Sessions Judge while exercising revisional jurisdiction.

2. Bare perusal of the order passed by the trial Court would indicate that the trial Court has discussed the entire evidence as if it is passing an order of acquittal after full blown trial.
3. The law is well settled that if there is a *prima facie* case or material in the case of the prosecution/complaint warranting issuance of notice to the proposed accused for holding regular trial against him, framing of charge is permissible as at that stage the trial Court is not supposed to record a finding as to whether the prosecution would ultimately succeed or not.
4. In the case at hand, the trial Court has done just the opposite by recording a finding that the case of the prosecution appears to be not genuine.
5. The revisional Court has rightly interfered with the trial Court's order and directed that the accused person shall remain present personally for facing the trial.
6. In view of the above, no interference with the order passed by the Additional Sessions Judge is permissible in view of the settled legal position of law.
7. In the result, the instant petition, being bereft of merit, is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

Judge
Prashant Kumar Mishra

Gowri