

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 603 of 2019

Nootan Prasad Patel, S/o. Late Chintamani Patel, Aged About 64 Years, R/o. Malidipa, Tahsil and District - Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. Smt. Teejmati, W/o. Lochan Prasad, Aged About 88 Years, R/o. Village - Chhatamura, Tahsil and District - Raigarh, Chhattisgarh.
2. Dhaniram Patel, S/o. Late Sadharam Patel, R/o. Village - Chhatamura, Tahsil and District Raigarh, Chhattisgarh.
3. Dolnarayan S/o Late Shri Ramprasad, R/o. Village - Chhuhipali, Tahsil and District - Raigarh, Chhattisgarh.
4. Sagarmati, W/o. Late Ramprasad, R/o. Village - Chhuhipali, Tahsil and District - Raigarh, Chhattisgarh.
5. Anand Bansal S/o. Late Bajrang Lal Bansal, Partner - Anubhav Builder, R/o Friends Colony, Dhimrapur, Tahsil And District - Raigarh, Chhattisgarh.
6. Neelam Toppo, Ex – Tahsildar, Pusore, aged around 58 years, At Present SDO Ambikapur, District - Ambikapur, Chhattisgarh.
7. Dhalchand Patel, S/o. Balmukund Patel, R/o. Kelovihar, Tahsil And District - Raigarh, Chhattisgarh.
8. Gopal Prasad Janghel, aged around 66 years, R/o. Dharamjaigarh, District - Raigarh, Chhattisgarh.
9. J.R. Chaursiya, aged around 52 years, Ex-SDO, At Present R/o Raipur, District - Raipur, Chhattisgarh.

-----Respondents

For Petitioner

: Mr. Hari Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

07/08/2019

Heard on admission.

1. The instant petition under Article 226 of Constitution of India has been filed for quashment of the order dated 19.07.2019, passed by the Court of learned 5th Additional Sessions Judge, Raigarh, in Criminal Revision No.01/2019.
2. It is submitted by the counsel for the petitioner that respondent No.1 and 2 had filed a criminal complaint before the Court of Judicial Magistrate First Class, Raigarh praying for taking cognizance against the petitioner and the respondents No.3 to 9 for trial in offences under Section 120-B, 165, 167, 219, 418, 420, 467, 468 and 34 of the Indian Penal Code. The trial Court denied taking cognizance vide order dated 04.10.2018. This order was challenged by the respondent No.1 and 2 before the Revisional Court in Criminal Revision No.1/2019. The same was allowed and disposed off on 19.07.2019. The respondents No.4, 6, 7 & 8, were not served with notice, therefore, relying on the judgment of Supreme Court in **Priyanka Shrivastava & Anr. Vs. State of U.P. & Ors.**, reported in **(2015) 6 SCC 287** and in **Manharibhai Muljibhai Kakadia Vs. Shaileshbhai Mohanbhai Patel**, reported **(2012) 10 SCC 517**, it is submitted that it is clearly held that in case, revisional Court finds that the order challenged can be reversed, in such a case, the respondents parties have to be necessarily heard. Therefore, by passing the impugned order, the rights of the petitioner has been clearly violated. It is prayed that suitable order be passed.
3. The respondents are unserved.

4. On perusal of the impugned order, it is apparent that the petitioner, which was arrayed as respondent No.4 in revision petition was not served with notice, therefore, in view of the direction of the Supreme Court in case of ***Priyanka Shrivastava Vs. Vs. State of U.P. (supra)***, it is found that the mandate of the Supreme Court has been violated in passing the impugned order reversing the order of the trial Court, which has directly affected the rights of the petitioner and the respondents No.3 to 9. Therefore, this order can not be sustained in the eyes of law. Therefore, the petition is allowed at the motion stage. The impugned order dated 19.07.2019, passed in Criminal Revision No. 1 of 2019, is hereby quashed and revision petition is restored to its original file.
5. The Revisional Court is now directed to decide the revision petition in accordance with the law and the principle laid down after serving of notice upon the respondents in that case and after giving them proper opportunity of hearing.
6. Accordingly, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge