

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 380 of 2019**

{Arising out of Order dated 04/07/2019 passed in Writ Petition(Cr.) No. 273 of 2019 by
the learned Single Judge}

- Sherbahadur Singh Thakur S/o Late Laxman Singh Thakur Aged About 32 Years
Occupation- Service Presently Posted As City Superintendent Of Police, Korba,
District Korba Chhattisgarh, R/o C.S.E.B. Colony, Korba, District Korba
Chhattisgarh

----Appellant**VERSUS**

1. State Of Chhattisgarh Through Secretary, Ministry Of Home And External Affairs,
Mahanadi Bhawan, Mantralaya, Nawa Raipur, Atal Nagar, Raipur Chhattisgarh,
District : Raipur, Chhattisgarh
2. Inspector General Of Police Bilaspur Range, Bilaspur Chhattisgarh,
District : Bilaspur, Chhattisgarh
3. Director General Of Police Mantralaya, Raipur Chhattisgarh, District :
Raipur, Chhattisgarh
4. Superintendent Of Police Korba, District Korba, Chhattisgarh, District :
Korba, Chhattisgarh
5. M/s Niranjana Lal Agrawal A Proprietorship Firm, Through Proprietor Shri
Raj Agrawal, S/o Late Niranjana Lal Agrawal, Aged About 32 Years, Having
Its Office At Tulsi Marg, Korba, Chhattisgarh, District : Korba, Chhattisgarh
6. Asit Kumar Pandey S/o Shri A.K. Pandey Aged About 59 Years General
Manager, J.K. Area, P.O. Jamuna Colliery, Anuppur, Madhya Pradesh.,
District : Anuppur, Madhya Pradesh
7. Ajit Singh Sodha S/o Late Shri Raj Singh Sodha Aged About 56 Years
General Manager (Operation), J.K. Area, P.O. Jamuna Colliery, Anuppur,
Madhya Pradesh, District : Anuppur, Madhya Pradesh

-----Respondents

For Appellant	:	Mr. Malay Shrivastava, Advocate
For Respondent-State	:	Mr. Vikram Sharma, Deputy G.A.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per P.R. Ramachandra Menon, C.J.****05/09/2019**

1. The challenge is against the verdict passed by learned Single Judge, whereby
the course and events pursued by the 2nd respondent in the writ petition by
issuing notice under Section 160 of the Cr.P.C. to the petitioners has been
deprecatd; observing that it was, *prima facie*, without registering any crime
and hence that the stage of investigation had not been reached, by virtue of

which the said proceeding was liable to be sustained and hence set aside.

2. In the said circumstance, an observation was made to the effect that Superintendent of Police was acting beyond his authority and hence the learned Judge directed the Government competent authority to take disciplinary action against the 2nd respondent. This, according to the appellant herein, is not correct or sustainable as the adverse order has been passed without affording an opportunity of hearing to him. Reference is made to the order dated 30.04.2019 passed by learned single Judge, when the matter was admitted, issuing notice only to the other respondents, than the 2nd respondent in the writ petition. However, what transpired thereafter is not correctly known to us, because there is an observation in paragraph-3 of the judgment under challenge to the effect that all the respondents were heard. 'Paragraph 3' reads as follows:

“3. Counsel for the respondent No. 6 submits that the petitioners have submitted reply to the notice dated 02.04.2019 on 18.04.2019. As the notice has been complied with, therefore, the petition has become infructuous. Same arguments have been advanced by the respondents No. 1 to 5.”

3. If at all, the appellant is aggrieved in any manner with regard to the course and events, it is for the appellant to approach the learned Judge in the first instance, pointing out the error apparent on the face of records; if any. In the said circumstance, learned counsel seeks for permission to withdraw the matter without prejudice to the rights and liberty of the appellant (2nd respondent in the writ petition), to pursue other appropriate remedy in accordance with law.
4. Permission is granted. The appeal is dismissed as withdrawn.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge