

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 419 of 2016

1. Satyadev, S/o Rajaram Tandon Aged About 30 Years R/o Village Mulmula, Thana Pamgarh, District-Janjgir Champa, Chhattisgarh.
2. Shital Tandon, S/o Rajaram Tandon Aged About 27 Years R/o Village Mulmula, Thana Pamgarh, District-Janjgir Champa, Chhattisgarh.
3. Swantantra Kumar Tandon(Wrongly Mention as Kapar), S/o Rajaram Tandon Aged About 45 Years R/o Village Mulmula, Thana-Pamgarh, District-Janjgir Champa, Chhattisgarh.
4. Rajaram Tandon, S/o Late Nanki Tandon, Aged About 53 Years, R/o Village-Mulmula, Thana-Pamgarh, District-Janjgir-Champa, Chhattisgarh.

---- Applicants

Versus

- Anita Tandon, W/o Satyam Tandon, Aged About 28 Years, R/o Mulmula, Thana-Mulmula, District-Janjgir Champa, Chhattisgarh.

---- Respondent

For applicants	:	Mr. Parag Kotecha, Advocate.
For Respondent	:	None.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

02/12/2019

Heard.

1. This revision petition has been brought being aggrieved by the order dated 21.3.2016 passed by the learned First Additional Sessions

Judge, Janjgir, District-Janjgir-Champa in Criminal Revision No.131/2015.

2. It is submitted that respondent had filed a complaint praying for registration of offences under Sections 294, 323, 506B & 392 of IPC against the applicants. The Court of learned JMFC vide order dated 4.9.2015 dismissed the complaint case under Section 203 of CrPC against which the respondent preferred revision before the Sessions Court. The Sessions Court by the impugned order partly allowed the revision and directed the Court of learned Magistrate to register offence under Section 352 of IPC against the applicants.
3. The revisional jurisdiction is invoked to examine the legality, correctness and propriety of an order itself and nothing more than that. The powers of Sessions Court are described in Section 399 of CrPC, which are akin to the powers that are exercised by the High Court under Section 401 of CrPC. While exercising revisional jurisdiction the Court has taken a step ahead by passing the impugned order directing the lower Court to take cognizance of a particular offence against the applicants. This was not within the jurisdiction of revisional Court while exercising the powers of revision under Section 399 of CrPC.
4. The provision regarding taking cognizance of offence is very much specified in Section 190 of CrPC, which provides as to when a Magistrate shall take cognizance of offence. There is specific provision under Section 193 of CrPC which envisages that no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code.
5. In this case, the learned Sessions Court has observed that there is substance present in the complaint to proceed against the applicants under Section 352 of IPC, which is not permissible. The learned Sessions Court cannot step into the shoes of the learned Magistrate and exercise the power of taking cognizance. Once it is found by the revisional Court that the orders under challenge suffers from any infirmity, the Court in exercise of its revisional jurisdiction can set aside that order and direct the trial Court to reconsider on the complaint case

in accordance with law and pass the order afresh. Since the order impugned suffers from infirmity, which is incorrect, improper and against the provisions of law, this revision petition deserves to be allowed at the motion stage.

6. Accordingly, the revision petition is allowed. The impugned order is set aside and also the order passed by the learned JMFC is set aside. The complaint case be reconsidered and decided in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha