

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1262 of 2019

1. Kishan Lal S/o Panchram Verma Aged About 49 Years,
 2. Anesh Kumar Verma S/o Ghanaram Verma, Aged About 48 Years,
 3. Ganeshwar Verma, S/o Panchram Verma, Aged About 42 Years,
 4. Piush Verma, S/o Kishan Lal Aged About 19 Years
- All Applicants No. 1 to 4 were R/o Bhalesur, Suhela, Baloda Bazar, District : Balodabazar-Bhathapara, Chhattisgarh
5. Malikram, S/o Ghondul Ram Yadu Aged About 41 Years R/o Mohra, Suhela, Baloda Bazar, District : Balodabazar-Bhathapara, Chhattisgarh
 6. Rahul Kasyap, S/o Chandrika Kasyap, Aged About 29 Years R/o Bhalukona, Baloda Bazar, District : Balodabazar-Bhathapara, Chhattisgarh
 7. Bhuneshwar Sahu S/o Bhururam, Aged About 22 Years,
 8. Dharmendra Verma S/o Bhanupratap Verma, Aged About 21 Years,
 9. Dhaneshwar Yadu S/o Phagu Ram Yadu Aged About 42 Years,
 10. Ghansyam Yadu S/o Manharan Yadu, Aged About 29 Years,
 11. Dileshwar Yadu S/o Hiru Yadu Aged About 18 Years,

Applicants No.5&7 to 11 were the R/o Mohra, P.S. Suhela, Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, Through S.H.O.- Suhela, (P.S. Not Mention In The Order), District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondent

For Applicants	: Mr. Hemant Gupta, Advocate
For Respondent/State	: Mr. Avinash K. Mishra, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-10-2019

1. This revision petition has been brought for challenging the order dated 28.02.2019, passed by the Special Sessions Judge (Atrocities)

Balodabazar, C.G., dismissing the application filed by the applicants under Section 209 read with Section 323 of the Cr.P.C. .

2. It is submitted by learned counsel for the applicants that the FIR lodged by Raju Navrange regarding the incident that took place on 13.03.2019, at about 17.30 p.m. near the pan shop of the complainant, in which offences have been registered against the applicants petitioner No.1,2,6 and 8, the crime number has been registered as 69/19, by police station Suhela, District – Baloda-bazar. The FIR was lodged by the petitioner No.1 against Raju Navrange, the complaint in earlier case regarding incident had took place and on 13.03.2019 at about 19.30 p.m. near Gudi Chowk in village Bhalesur. On the basis of which offence has been registered against Raju Navrange under Sections 294,323 and 506 of the IPC, registered as crime number 70/2019. Subsequent to that, another FIR has been lodged by petitioner No.5 against Raju Navrange and his associates regarding commission of offence on 13.03.2019 at about 18.00 p.m. On the basis of which offence has been registered in crime number 71/19, under Section 294,325 and 506/34 of the IPC against Raju Navrange and his associates.
3. It is submitted that all the incidents that have taken place are incidents of the same transaction and relating to same dispute, therefore, prayer was made for running trial of all the cases in however, the learned Court has given this finding that the cases mentioned herein above are not counter cases and the application filed has been rejected, which is an arbitrary order.
4. Placing reliance in the judgment of Madras High Court in **Ganesh Vs. State**, reported in 2011 Lawsuit(Mad) 4981. It is argued that all the counter cases should be tried by the same Court. It is argued that **In References Vs. State of Madhya Pradesh**, reported in 2016 ILR(MP)

3142, it has been similarly observed after placing reliance on the judgment of Supreme Court in **Sudhir Vs. State of M.P.**, reported in 2001 Vol-II SCC 688, that all the counter cases should be tried by the same court, hence, it is prayed that the impugned order be set aside and the order be passed for the trial of all the cases by the same Court.

5. Learned Counsel appearing for the Respondent opposes the submission so made and submits that, the time of incident is different and in each cases mentioned herein before, it cannot be said that all the cases arise out of the same incident. Apart from that, the accused parties in all the cases are also not same. It is submitted under Section 220 of the Cr.P.C. the prayer can be made before the trial Court itself where series of acts connected to the other cases are part of the same transaction and the offences are committed by the same person, in that case that person can be tried for all the cases in one trial, therefore, revision petition does not deserved to be allowed.
6. Heard both counsel for the parties and perused the material available on record.
7. The ratio laid down by the Supreme Court in the matter of Sudhir Vs. State of Madhya Pradesh (Supra) is that these two cases which are relating to the same incident and one of such cases is triable by Magistrate then even the case triable by Magistrate can be committed under Sessions under Section 323 of the Cr.P.C. The dictionary meaning of cross cases or counter case is simply this that one or more cases arising out of the same incident. The word same incident cannot be spread out to different timings.
8. In the present case, the first incident occurred at 6.00 p.m. on the date of incident, second incident occurred at about 7.00 p.m. and third incident occurred at about 7.30 p.m., therefore, it cannot be said that all

three cases arise out of the same incident. They are three different cases which had occurred at different times, though the date of incident is same and the place of incident also appears to be same.

9. Therefore, on the basis of the discussions made herein above, I do not find that all three cases falls in the criteria of counter cases, hence, I do not find any substance in this petition, therefore, this revision petition is dismissed at motion stage itself.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

yasmin