

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.503 of 2020

Smt. Bina Pathak, W/o Late Bake Pathak, aged about 66 years, R/o Qtr. No.16/A, Street No.18, Sector 2, Bhilai, District Durg (C.G.) (Veena Pathak wrongly mentioned in order sheet)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Home Department, Mahanadi Bhawan, Naya Raipur (C.G.)
2. Superintendent of Police, Durg, District Durg (C.G.)
3. Sub-Divisional Magistrate, Bhilai Nagar, Durg (C.G.)
4. Town Inspector, Police Station Newai, Bhilai-Durg (C.G.)
5. Arvind Kumar Verma, S/o Late Prithvi Singh Verma, aged about 56 years, R/o 05/13, Pridarshani Parisar, East Supela, Bhilai, Police Station Supela, District Durg (C.G.)
6. Jagat Singh, S/o Late Barnam Singh, aged about 63 years, R/o Sector 3, PWD 108, Police Station Bhilai Bhatti, District Durg (C.G.)
7. Smt. Sushma Singh, W/o Sukhdev Singh, aged about 42 years, R/o Plot No.19, Daya Nagar, Risali, Police Station Newai, District Durg (C.G.)

---- Respondents

For Petitioner: Mr. T.K. Tiwari, Advocate.

For Respondents No.1 to 4 / State: -

Mr. H.S. Ahluwalia, Deputy Advocate General, on advance copy.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/03/2020

1. By the impugned order dated 25-11-2019, the Sub-Divisional Magistrate, Bhilai Nagar, Distt. Durg has passed a preliminary order under Section 145(1) of the CrPC which is sought to be challenged in this petition.

2. Mr. T.K. Tiwari, learned counsel appearing for the petitioner, submits that no finding with regard to possession has been recorded by the learned Sub-Divisional Magistrate by passing the preliminary order which runs contrary to the order of this Court in the matter of Joyal Bechak v. Subhash Sawal and another¹.
3. Mr. H.S. Ahluwalia, learned Deputy Advocate General appearing for the State / respondents No.1 to 4, would submit that the petitioner is at liberty to raise all the objections by filing reply before the Sub-Divisional Magistrate.
4. Be that as it may, the petitioner is at liberty to raise all such objections including objection based on order of this Court in Joyal Bechak (supra) while filing reply before the Sub-Divisional Magistrate and that will be considered and decided in accordance with law.
5. With the aforesaid observation, the petition stands finally disposed of.
6. This Court has not expressed any opinion on the merits of the matter and it is for the Sub-Divisional Magistrate to decide the case in accordance with law.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

1 Cr.M.P.No.521/2017, decided on 20-6-2017