

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 725 of 2020**

1. Sangita @ Sanjeeta Sharma W/o Gopal Sharma Aged About 45 Years R/o Village - Sariya, Ward No. 12, Tahsil - Baramkela, District - Raigarh Chhattisgarh.
2. Gopal Sharma, S/o Ram Pratap Sharma, Aged About 50 Years R/o Village - Sariya, Ward No. 12, Tahsil - Baramkela, District - Raigarh Chhattisgarh.

---- Petitioners**Versus**

State Of Chhattisgarh, Through - Police Thana - Sariya, District - Raigarh Chhattisgarh.

---- Respondent

For the Petitioners : Shri Sanjay Agrawal, Advocate.
 For the Respondent/State : Shri Siddharth Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.05.2020**

Heard.

1. This petition has been brought under Section 482 of the Code of Criminal Procedure praying for exercise of inherent jurisdiction of this Court against the order passed by the Judicial Magistrate First Class, Sarangarh, District Raigarh, dismissing the application under Section 437(1) of the Cr.P.C.

2. Learned counsel for the petitioners submits that the provision under Section 167(2) of the Cr.P.C. provides for grant of default bail. The Supreme Court has extended all limitations for filing of legal proceedings, by order dated 23.3.2020 in *Suo motu* Writ Petition (C) No. 3 of 2020, which has been

distinguished by the Single Bench of Madras High Court, Madurai Bench holding that limitation for filing of charge-sheet has not been extended by the order dated 23.3.2020 of the Supreme Court in the judgment dated 8.5.2020 given in the case of Settu vs. The State, Crl.O.P. (MD) No. 5291 of 2020. Hence, the petitioners are entitled for grant of default bail.

3. Countering the arguments of the petitioners' counsel, the State counsel has submitted that another Bench of the Madras High Court has given a different view in the case of **S. Kasi vs. State through the Inspector of Police, Samanallur Police Station** in **Crl.O.P.(MD) No. 5296 of 2020**, therefore, the Chief Justice of Madras High Court has referred the matter to the larger Bench. It is further submitted that looking to the extension of limitation granted by the Hon'ble Supreme Court, the entitlement of the petitioners for default bail has not arisen so far.

4. Considered the submissions made in this respect and also perused all the documents filed alongwith the petition.

5. The rejection order dated 21.4.2020 has been challenged which has been decided under the provisions of Section 437(1) of the Cr.P.C. by Judicial Magistrate First Class. One copy of the application is also filed which mentions that the application has been filed under Section 167(2) of the Cr.P.C. and it appears that no order was passed on this application by the trial Court.

6. Another thing is to be noticed that the petitioners have an option to file an application under Section 439 of the Cr.P.C. against the rejection order under Section 437 of the Cr.P.C. Even if any order is passed under Section

167(2) of the Cr.P.C. by the trial Court. by rejecting the same, the petitioners shall again have an option to file a revision petition before the Sessions Court. Therefore, I do not find any reason to exercise the jurisdiction under Section 482 of the Cr.P.C. in this petition on the basis of the discussions made herein-above.

7. Accordingly, the Cr.M.P. is dismissed and disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge