

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 10 of 2021

Yogesh Dewangan, S/o. Shri Kailash Dewangan, aged about 36 years,
R/o. Infront of Shiv Mandir, Civil Line Ward No. 07, Jagdalpur, District
Bastar, Chhattisgarh.

---- Petitioner

Versus

Smt Rajni Dewangan, W/o. Yogesh Dewangan, R/o. Village Palligaon,
Thodapara, Kumhrawand, Tahsil Jagdalpur, District Bastar,
Chhattisgarh.

-----Respondent

For Petitioner	: Mr. Alok Kumar Dewangan, Advocate
For Respondent	: Mr. Madhunisha Singh, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

16/03/2021

1. This criminal revision has been brought challenging the legality and correctness and propriety of the order dated 19.03.2020, passed by the learned Family Court, Bastar at Jagdalpur in M.J.C. No. 6 of 2018.
2. It is submitted by the learned counsel for the applicant that the impugned order is erroneous and illegal. The opportunity of bringing evidence of the applicant has been closed. The witnesses whom the applicant intends to examine are very crucial and important for the decision of dispute between the

parties. It is also submitted that the proposed witnesses are related to the applicant, therefore, their statement is relevant. It is prayed that the applicant be granted only one opportunity for producing evidence in the proceeding. Hence, revision petition be allowed and the relief be granted.

3. Counsel for the respondent opposes the submissions and submits that firstly the revision petition against the order passed on Section 311 of Cr.P.C. is not maintainable. In case of **Sethuram Vs. Rajamanickam**, reported in **(2009) 5 SCC 153**, it has been held that the order passed on application under Section 311 of Cr.P.C. is an interlocutory order, therefore, the revision against such order under Section 397 (2) of Cr.P.C. is clearly barred. It is further submitted that the applicant, who is non-applicant in MJC has been granted numerous opportunities for producing evidence and dates of the same are mentioned in the impugned order. It is submitted that the applicant is adopted dilatory tactics to prolong the proceeding, therefore, the application that was filed was not filed with a bonafide intention, which has been rightly rejected by the learned Family Court. This revision petition be dismissed.
4. Considered on the submissions.
5. This position has been settled in **Prabhu Chawla Vs. State of Rajasthan**, reported in **AIR 2016 SC 4245** that in case of non-availability of remedy under Section 397 of Cr.P.C. the petition under Section 482 of Cr.P.C. shall be maintainable. However, this

petition has not been filed under Section 482 of Cr.P.C. even then the merits of this case is needed to be examined.

6. Considered on the submissions. The impugned order, which is very detailed order and on perusal of the same, it is found that the learned Family Court has mentioned each and every reasons for dismissing the application giving details of number of opportunities given to the applicant and also the insufficiency of the application that has been filed by him under Section 311 of Cr.P.C., therefore, this Court is of the view that the learned Family Court has not committed any error in passing the impugned order.
7. Hence, this petition has no merits and it is dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge