

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 532 of 2021**

Kishor Venkat (Wrongly Written As Kishore Venkat) S/o S. Venkatesan
(Wrongly Written As Srinivas Venkat) Aged About 30 Years R/o Gulab Nagar
Mopka, District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Mahila
Thana, District Raipur Chhattisgarh.

---- Respondent

For the Petitioner	:	Shri Abhishek Sinha, Senior Advocate with Shri Pranjal Agrawal, Advocate.
For the Respondent/State	:	Shri Sameer Uraon, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****16.06.2021**

Heard.

1. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to modify the order passed by this Court in M.Cr.C.(A) No. 327 of 2021 vide order dated 26.05.2021.

2. It is submitted by learned Senior counsel for the petitioner that this Court while rejecting the anticipatory bail application of the petitioner has made some observations in paragraph Nos. 7 and 8. The petitioner has separately filed a petition under Article 226 of the Constitution of India for quashing of the criminal proceedings against him and he may also in future face the trial, therefore, the observations may give an impression in consideration of the other matters in the trial. Hence, it is prayed that this

Court may make an observation to this effect that the observations in the impugned order shall not come in the way in the matter pending for consideration or in the trial and also it is prayed that the order be modified accordingly.

3. Learned State counsel opposes the petition and the submissions made in this respect. It is submitted that under Section 362 of the Cr.P.C. there is a specific bar that any criminal order cannot be reviewed. Relying on the judgment of Supreme Court in the case of **Atul Shukla vs. State of Madhya Pradesh and Another** in **Criminal Appeal No.837 of 2019** decided on 6.5.2019, it is submitted that the Supreme Court has taken a strict view that there is a specific bar under Section 362 of the Cr.P.C., hence, any application for review or modification in a criminal order cannot be entertained.

4. Considered the submissions. The prayer made in the petition under Section 482 of the Cr.P.C., is to expunge the observations made in paragraphs 7 and 8 of order 26.5.2021, which cannot be interfered with in view of the bar under Section 362 of the Cr.P.C. and also according to the view of Supreme Court in the case of **Atul Shukla vs. State of Madhya Pradesh and Another** (supra). The concern of the petitioner is that the observations made in M.Cr.C.(A) No. 327 of 2021 vide order dated 26.05.2021 may create impression in the other matter or in the trial against him, therefore, it is a concern or preservation of the rights of the petitioner in the other matters which he is pursuing.

5. As regards, the submission of the counsel for the petitioner to make an observation to this extent only that the observations made in the impugned order should not come in the decision of other matters, that appears to be a different approach and that does not include prayer to expunge any observation in the impugned order making any additional remark on the order already passed does not amount to recall or modification of such order. Hence, taking into consideration of these submissions, this petition is disposed of at motion stage. It is made clear that the observations made in the order dated 26.5.2021 in M.Cr.C.(A) No.327 of 2021, are for the purposes of the order, that has been passed and these observations are not required to be taken as a guiding factor or established fact in the other matters when they shall be considered on merits by this Court or by the trial Court.

6. Accordingly, this Cr.M.P. is disposed of.

Sd/-

(Rajendra Chandra Singh Samant)
Judge