

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1109 of 2019**

- Akhilesh Sharama, son of Late Shri V. K. Sharma, aged about 44 years, Office at 307, Harshit Corporate, Amanaka, Raipur (C.G.), Resident of 38, Harshit Nagar, Hirapur Road, Mohbabazar, Raipur (C.G.).

---- Petitioner**Versus**

1. Vijay Kumar Sharma, son of Shri Babulal Sharma, aged about 71 years.
2. Ajay Kumar Sharma, son of Shri Babulal Sharma, aged about 54 years.
3. Antriksh Sharama, son of Shri Ajay Kumar Sharma, aged about 30 years.
4. Avinash Sharma, son of Shri Ajay Kumar Sharma, aged about 26 years.
5. Sanjay Kumar Sharma, son of Shri Vijay Kumar Sharma, aged about 49 years.
6. Avinash Sharma, son of Shri Vipin Kumar Sharma, aged about 42 years.

All residents of Dunda, Sivni, District Seoni (M. P.).

---- Respondents

For Petitioner	: Mr. Abhyuday Singh, Advocate
For Respondents	: Mrs. Anju Ahuja, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****05.08.2021**

1. Learned counsel for the petitioner would submit that the petitioner has filed complaint under Section 200 of Cr.P .C. read with Sections 499 and 500 of IPC against the respondents.
2. Learned Judicial Magistrate First Class, Raipur vide its order dated 10.07.2018 has returned the complaint to be presented before the Court having jurisdiction over it. The operative part of the order dated 10.07.2018 is extracted below :-

"चूँकि परिवादी का निवास स्थल, थाना सरस्वती नगर के क्षेत्र में स्थित होने से मामले का संज्ञान लिये जाने की क्षेत्राधिकारिता नहीं है। उक्त संबंध में माननीय मुख्य न्यायिक मजिस्ट्रेट, रायपुर द्वारा अपने विविध आदेश क्रमाँक-क्यू/सीजेएम/2017 दिनांक-29 अगस्त 2017 के अनुसार थाना सरस्वती नगर के अन्तर्गत परिवाद प्रकरण के सुनवाई किये जाने के क्षेत्राधिकार माननीय दिप्ती सिंह गौर, न्यायिक मजिस्ट्रेट प्रथम श्रेणी, रायपुर, छ.ग. को प्रदान किया गया है। अतः प्रस्तुत आवेदन की सुनवाई करने का क्षेत्राधिकार माननीय न्यायालय को है। इस कारण प्रस्तुत आवेदन को संबंधित न्यायालय में प्रस्तुत करने के लिये आवेदक को मूलतः प्रदान किया जाता है।

प्रकरण समाप्त।"

3. Thereafter, the petitioner preferred criminal revision before Second Additional Judge of First Additional Sessions Judge, Raipur, which was registered as Criminal Revision No. 443/2018. The First Additional Sessions Judge, Raipur vide impugned order dated 18.01.2019, has not only decided the

case on merits but also imposed a cost of Rs. 5,000/- while affirming the order dated 10.07.2018 passed by Judicial Magistrate First Class, Raipur.

4. The observation made by learned Revisional Court with regard to merit of the case precisely in paragraph 7 to 9. Merits of the case is not within the jurisdiction of the Revisional Court as only issue with regard to jurisdiction of Judicial Magistrate, First Class has been raised *whereas* the learned Revisional Court has gone into merits of the case, this is a material irregularity and illegality committed by the First Additional Sessions Judge, Raipur.
5. Thus, so far as observation made by the revisional Court with regard to paragraph Nos. 7 to 9 and imposition of cost of Rs. 5,000/- is liable to be and is hereby set aside. However, the petitioner is at liberty to file a complaint before the competent Court having jurisdiction over it, who, in turn, will decide the case on its own merits in accordance with law without being influenced by any of the observations made by this Court.
6. With this observation, the instant CRMP is allowed in part.
7. No order as to costs.

Sd/-
(Narendra Kumar Vyas)
Judge