

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 426 of 2021**

- Ashok Kumar Garg, S/o Shri Govind Kumar Garg, aged about 53 Years, Resident of Jagatpur Raigarh, Tahsil and District Raigarh, Chhattisgarh (Complainant).

---- Petitioner

Versus

1. Aashish Kumar Tiwari, S/o Mahamber Tiwari, aged about 36 Years, Residence of Jutemile Road Raigarh, Tahsil and District Raigarh, Chhattisgarh (Accused).
2. State of Chhattisgarh, Through District Magistrate, District Raigarh, Chhattisgarh.

---- Respondents

CRR No. 427 of 2021

- Anil Kumar Garg, S/o Shri Govind Ram, aged about 53 Years, Resident of Jagatpur Raigarh, Tahsil and District - Raigarh (Chhattisgarh) (Complainant).

---- Petitioner

Versus

1. Aashish Kumar Tiwari, S/o Mahamber Tiwari, aged about 36 Years, Residence of Jutemile Road Raigarh, Tahsil and District - Raigarh (Chhattisgarh) (Accused).
2. State of Chhattisgarh, Through District Magistrate, District - Raigarh (Chhattisgarh).

---- Respondents

For Petitioners	Mr. Vineet Kumar Pandey, Advocate.
For Respondent No.1	Mr. Hari Agrawal, Advocate.
For Respondent No.2/State	Dr. (Ms.) Veena Nair, Deputy A.G.

Hon'ble Shri Justice Gautam Chourdiya 
Order on Board

23/11/2021

1. Heard on admission.

2. The revision petitions are admitted for hearing.
3. With the consent of the parties, the matters are heard finally.
4. Criminal Revision 426 of 2021 has been filed by the applicant/complainant- Ashok Kumar Garg under Section 397/401 of Cr.P.C. challenging the order dated 25.02.2021 passed by the 5th Additional Sessions Judge, Raigarh, C.G. in Criminal Revision No.79/2020 whereby the Court below has allowed the revision petition of the respondent/accused by setting aside the order dated 12.02.2020 of Judicial Magistrate First Class, Raigarh, C.G. taking cognizance of the matter on the ground of limitation.
5. Likewise, Criminal Revision No.427 of 2021 has been filed by the applicant/complainant- Anil Kumar Garg challenging the order dated 25.02.2021 passed by the 5th Additional Sessions Judge, Raigarh, C.G. in Criminal Revision No.78/2020 by which the revision of the respondent/accused has been allowed, setting aside the order dated 12.02.2020 of Judicial Magistrate First Class, Raigarh, C.G. taking cognizance of the matter on the ground of limitation.
6. As the issue involved in both these revision petitions for consideration is the same, they are being disposed of by this common order.
7. Learned counsel for the applicants submits that the impugned orders of the Revisional Court are *per se* illegal and contrary to the material available on record. He submits that the complaint cases were filed on 13.01.2020 i.e. well within the period of limitation but the

Revisional Court has committed an error in computation of the limitation period and wrongly held the complaint cases barred by limitation. Being so, the impugned orders are liable to be set aside and the complaint cases deserve to be restored to their original numbers for further proceedings.

8. On the other hand, learned counsel for the respondent No.1 supports the impugned orders.

9. Learned counsel for the State has duly assisted the Court.

10. Heard learned counsel for the parties and perused the material available on record.

11. From perusal of the impugned orders, it is seen that the revision petitions have been allowed by the Court below mainly on the ground of limitation by observing that after the demand notice issued by the complainant to the accused returned unserved on 29.11.2019, the complainant should have waited till 14.12.2019 and thereafter he should have filed complaint cases by 13.01.2020 whereas the complaint cases have been filed on 14.01.2020 i.e. just after one day of expiry of limitation for filing of complaint cases under Section 138 of the Act without moving any application along with the complaint cases for condonation of such delay. It has then observed that the trial Court has committed an illegality by taking cognizance of the matter in time barred complaint cases which cannot be sustained.

12. A bare perusal of the order sheet dated 14.01.2020 of the trial Court, it is evident that the complaint cases were received from filing

section on 13.01.2020 after registration by the trial Court for adjudication. As such, the finding of the Revisional Court that the complaint cases were filed on 14.01.2020 runs contrary to the material available on record which shows that the complaint cases were filed on 13.01.2020 only.

13. Further, considering the contents of the complaints supported by the affidavit, and the other material available on record being the cheque in question bearing signature of the accused in favour of the complainant and the legal notice sent to the accused, the order dated 14.01.2020 of the trial Court taking cognizance of the matter cannot be faulted with.

14. On the basis of aforesaid discussions, both the revision petitions are allowed. The impugned orders dated 25.02.2021 of the Revisional Court passed in Criminal Revision Nos. 78/2020 & 79/2020 are hereby set aside. Consequently, the complaint cases stand restored to their original numbers i.e. 66 of 2020 and 67 of 2020 and the trial Court to proceed further in these matters in accordance with law.

Sd/-
Gautam Chourdiya
Judge