

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 939 of 2021

Prahlad Sahu S/o Punuram Sahu Aged About 62 Years R/o Bazar Chowk Fagundah, Police Station Gurur, District Balod, Chhattisgarh.

---- Petitioner

Versus

1. Narsingh Sahu S/o Ramgopal Sahu Aged About 57 Years R/o Parsuli, Police Station Arjuni, District Dhamtari, Chhattisgarh
2. State Of Chhattisgarh Through Station House Officer, Police Station Gurur, District Balod, Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Raghvendra Pradhan, Advocate with Shri Shikhar Sharma, Advocate.
For Respondent/ State	:	Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10.09.2021

Heard.

1. The present petition has been brought under Section 482 of the Cr.P.C. praying for modification and quashing of the order giving direction to the Registry of this Court in the order dated 19.7.2021 passed in Cr.M.P. 39 of 2021.
2. It is submitted by counsel for the petitioner that the petitioner is a villager and simple person and he did not have any knowledge about the proceeding of the Court and further, he had not been informed about the rules and regulations by the counsel appearing for him, therefore, the mistake was committed without any intention on his part. The order of this court for making an enquiry against the applicant under Section 340(1) of the Cr.P.C. is too harsh, which may be recalled.

3. Learned State counsel appearing for respondent No.2 opposes the submissions and submits that the order passed cannot be recalled or modified as there is a clear bar under Section 362 of the Cr.P.C. Reliance has been placed on the judgment of Supreme Court in the case of **Atul Shukla vs. State of Madhya Pradesh and Another**, reported in **(2019) 17 SCC 299**.
4. Considered on the submissions. All the grounds that have been raised in this petition by the petitioner regarding his ignorance, about the non-information and is being a naive villager, the said grounds can be raised by him in his defence in the proceedings under Section 340 of the Cr.P.C. The order passed in Cr.M.P. 39 of 2021 on 19.7.2021 is an order passed in criminal proceeding under the provisions of Section 439(2) of the Cr.P.C., therefore, the same cannot be recalled in view of the provisions under Section 362 of the Cr.P.C.
5. Accordingly, the present petition is not maintainable, which is dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge