

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

CRMP No. 1089 of 2021

1. Smt. Kalpana Sharma W/o Shri Umakant Sharma, Aged About 33 Years Cast Brahman, R/o D.R.- 2,4/4, Wireless Colony, Near Church Square, Bilaspur (Chhattisgarh) P.S. Tarbahar, Bilaspur (Chhattisgarh) Tahsil And Revenue District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Umakant Sharma, S/o Shri S.C. Sharma, Aged About 35 Years Cast Brahman, R/o D.R.- 2,4/4, Wireless Colony, Near Church Square, Bilaspur (Chhattisgarh) P.S. Tarbahar, Bilaspur (Chhattisgarh) Tahsil And Revenue District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Ramakant Sharma, S/o Shri S.C. Sharma Aged About 36 Years Cast Brahman, R/o D.R.- 2,4/4, Wireless Colony, Near Church Square, Bilaspur (Chhattisgarh) P.S. Tarbahar, Bilaspur (Chhattisgarh) Tahsil And Revenue District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
4. S.C. Sharma, S/o Shri G.R. Sharma Aged About 59 Years Cast Brahman, R/o D.R.- 2,4/4, Wireless Colony, Near Church Square, Bilaspur (Chhattisgarh) P.S. Tarbahar, Bilaspur (Chhattisgarh) Tahsil And Revenue District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Petitioners

Versus

1. Uma Devi W/o Late Shri Bansi Lal Sharma Aged About 60 Years Cast Brahman, R/o Agrasen Chowk, Sonal Tower, Second Floor, Bilaspur Police Station- Civil Lines, Bilaspur (Chhattisgarh) Tahsil And Revenue District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Ajay Krishna Sharma, S/o Late Shri Bansi Lal Sharma, Aged About 37 Years Cast Brahman, R/o Agrasen Chowk, Sonal Tower, Second Floor, Bilaspur Police Station- Civil Lines, Bilaspur (Chhattisgarh) Tahsil And Revenue District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Vijay Krishna Sharma, S/o Late Shri Bansi Lal Sharma, Aged About 34 Years Cast Brahman, R/o Agrasen Chowk, Sonal Tower, Second

Floor, Bilaspur Police Station- Civil Lines, Bilaspur (Chhattisgarh)
Tahsil And Revenue District Bilaspur Chhattisgarh, District : Bilaspur,
Chhattisgarh

---- Respondents

For Petitioners : Shri S.S. Tekchandani, Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order

20/10/2021

1. Challenge in this petition is to order dated 30.7.2021 passed by learned Third Additional Sessions Judge, Bilaspur in Criminal Revision No. 34 of 2021 by which revision filed by the petitioners has been dismissed.
2. Learned counsel for the petitioner submits that in complaint case filed by respondents under Section 200 Cr.P.C., learned Judicial Magistrate First Class has taken cognizance and registered the criminal case under Section 294 and 506 (Part-I) IPC against the petitioners. The order taking cognizance and registration of the case for the offence punishable under Sections 294, 506 (Part-I) IPC dated 25.2.2019 was put to challenge before the Sessions Court by way of revision. Initially, the revision petition was filed in English language which was later on withdrawn with liberty to file afresh. The second revision petition was filed along with an application under Section 5 of the Limitation Act. Learned Sessions Judge have issued notice to respondents therein and at the same time have returned back the records of the trial Court i.e. Court of Judicial Magistrate First Class.
3. Shri S.S. Tekchandani, learned counsel for the petitioners submits that once the records have been sent back to the trial Court, the purpose of filing revision challenging the order of registration of criminal case against the petitioners under Sections 294, 506 (Part-1) IPC will be frustrated because learned Judicial Magistrate

will proceed further and may conclude the entire proceedings.

4. I have heard learned counsel for the parties.
5. It is not in dispute that the order passed by the Judicial Magistrate on 25.2.2019 was challenged by way of filing revision along with an application under Section 5 of the Limitation Act.
6. Before considering the revision on merits or any interim application filed along with revision, delay in filing of revision is to be condoned by following due procedure as prescribed under the Law. Before considering application of condonation of delay and condoning the delay in filing of revision, opportunity of hearing is to be provided to respondents therein by way of issuing notice on application under Section 5 of the Limitation Act. Learned Sessions Judge have issued notices to the respondents therein on application under Section 5 of the Limitation Act by the impugned order. Though there is mention that records may be sent back to the Court below but it has been further recorded that after appearance of respondents/non-applicant therein, the records of the Court below be called again.
7. Submission of learned counsel for the petitioners that when the revision filed by the petitioner is pending for consideration, records ought not to have been returned back to the trial Court is not acceptable for the reason that it is not mandatory requirement under the provision of law that whenever revision is filed challenging the interim order passed by the trial Court, records of the trial Court ought to be kept from the date of first hearing till disposal of the revision. In the impugned order, learned Sessions Judge have already recorded that after appearance of respondents therein, the records be again called at the time of hearing which cannot be said to be erroneous or the revisional Court has committed any illegality.
8. For the foregoing reasons, I do not find any illegality in the order passed under challenge i.e. order dated 30.7.2021 passed by learned Sessions Judge, Bilaspur which is an interim order of

issuance of notice.

9. The petition being devoid of substance is liable to be and is accordingly dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Praveen