

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2696 of 2019**

- Pawan Kumar Chouhan S/o Lt Chinta Ram Chouhan Aged About 40 Years Resident Of Dhimrapur Jagatpur Tahsil And District Raigarh Chhattisgarh...(Accused), District : Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. Nitesh Kumar Agrawal S/o Gulab Chand Agrawal Aged About 40 Years Resident Of Town Hall Ke Samne Raigarh Tahsil And District Raigarh Chhattisgarh ..(Complainant), District : Raigarh, Chhattisgarh
2. State Of Chhattisgarh Through District Magistrate Raigarh District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Respondents

For petitioner	:	Mr. Vivek Kumar Pandey, Advocate.
For State	:	Mr. Kapil Maini, Panel Lawyer.

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****05-10-2021**

1. The petitioner has filed the instant petition under Section 482 of the Cr.P.C., challenging the order dated 29-11-2019 passed by learned 5th Additional Sessions Judge, Raigarh in Criminal Revision No. 93 of 2019 and order dated 1-4-2016 passed in Criminal Revision No. 116 of 2015 by learned 2nd Additional Sessions Judge, Raigarh whereby the petition filed by the petitioner has been dismissed while affirming the order dated 4-9-2019 passed by the Judicial Magistrate First Class in Criminal Case No. 13 of 2015 Nitesh Kumar Agrawal vs. Pawan Kumar Chouhan) whereby learned Judicial Magistrate First Class

dismissed the petition filed by the petitioner while recording a finding that since the case has already been registered on 10-3-2015, therefore, objection raised by the complainant is not tenable.

2. Learned counsel for the petitioner would submit that the petitioner has not been served with notice which is punishable under Section 138 of the Negotiable Instruments Act A as he has not received the demand notice of the complainant, therefore, without serving of demand notice, present complaint is not maintainable.
3. Learned trial Court vide its order dated 4-9-2019 has rejected the objection by recording a finding that the trial Court has registered the complaint for the alleged offence under Section 138 of Negotiable Instruments Act, which has been assailed by the accused by filing criminal revision No. 116 of 2015 that has been dismissed by learned 2nd Additional Sessions Judge, Raigarh on 1-4-2016, therefore, the objection raised by the petition is not tenable. Against the said order, the petitioner has preferred the revision before the court of 5th Additional Sessions Judge, Raigarh which is registered as Criminal Revision No. 93 of 2019. Learned Trial court vide its order dated 29-11-2019 has dismissed the revision petition as subsequent revision is not tenable. Both the orders are being assailed by the petitioner by filing the instant petition.
4. The contention raised by the petitioner that the petitioner has not been served with demand notice of the complainant, is a matter

of evidence and it is his defense which cannot be examined by this court while hearing the petition under Section 482 of Cr.P.C., Therefore, contention raised by the petitioner is not accepted. However, liberty is given to the petitioner to raise his defence which is available to him under the law before the concerned trial court.

5. With the aforesaid observation, the instant petition is disposed of.

Sd/-

(Narendra Kumar Vyas)

Judge

Raju