SYED ROSHAN ZAMIR ALI

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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2726 of 2026

1. Dr. Neelam Gaikwad D/o Hemant Kumar Gaikwad Aged About 41 Years R/o Sanatan Nagar, Sirsa Marg, Ward No. 08 Khoka, Bhilai And District Durg Chhattisgarh

... Petitioner

versus

1. Uday Singh Joshi S/o Late Ganeshram Joshi R/o Mannam Borsi Durg, Tehsil And District Durg Chhattisgarh
2. Famendra Singh Joshi S/o Late Ganeshram Joshi R/o Virat Nagar Durg, Tehsil And District Durg Chhattisgarh
3. Champi Devi W/o Late Ganeshram Joshi R/o Virat Nagar Durg, Tehsil And District Durg Chhattisgarh (Champi Devi Is Correct Name

... Respondent(s)

For Petitioner : Mr. Aman Pandey, Advocate

SB: Hon'ble Shri Justice Parth Prateem Sahu

Order On Board

27/10/2026

1. Challenge in this petition under Section 528 of the Bhartiya Nagrik Suraksha Sanhita 2023 (for short ‘BNSS’) is to the order dated 18.9.2026 passed in Criminal Revision No.152/2026 by which learned 8th Additional Sessions Judge, Durg has dismissed the revision as not maintainable against

the order dated 30.6.2026 passed by learned Judicial Magistrate 1st Class Durg in unregistered case on the ground that it is an interlocutory order.

2. Facts of the case, in brief, are that the petitioner instituted a criminal complaint alleging commission of offences punishable under Sections 318(4), 316(5), 351(2) and (3), 338, 336(3), 61(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS'). The complaint was filed on 02.07.2025, and the preliminary evidence of the complainant was recorded on 25.08.2025, during which she exhibited documents in support of her allegations. Subsequently, the petitioner filed an application seeking permission to place on record a pen drive containing the marriage video of the complainant, a mobile phone voice recording of the conversation between the complainant and the accused persons, and the forensic consultant's report, which was received by her on 24.04.2026. The learned trial Court rejected the application by observing that neither the complaint nor the preliminary statement of the complainant contained any assertion that the marriage video or the voice recording had been sent for forensic examination. The learned Trial Court further observed that permitting the application in such circumstances would lead to an endless process. The petitioner challenged the said order before the learned Revisional Court, which dismissed the revision petition

as not maintainable, holding that the order under challenge was interlocutory in nature.

3. Learned counsel for the petitioner submits that learned trial Court rejected petitioner's application for taking the report of forensic consultant on record overlooking that provisions of Section 223 of BNSS do not contemplate or restrict acceptance of critical corroborative evidence or material evidence at initial stage. He submits that forensic consultation and evaluation report came into existence only after initiation of complaint proceedings and therefore, the petitioner could not have referred to the same in original complaint. Hence, the finding of learned trial Court that the petitioner did not plead in her complaint or state in her preliminary statement that she has sent the voice recording of conversation between her and accused persons for examination, therefore, if the application is allowed, this would become endless process. He submits that the apprehension of the learned trial Court that allowing the application would result in an endless process is unfounded and contrary to the interest of justice.

4. He further submits that the learned revisional Court has committed an error in holding that the order passed by the learned trial Court is interlocutory in nature. He submits that an order which substantially affects or prejudicially determines the rights of a party cannot be treated as a mere interlocutory

order. It is contended that rejection of application deprives the petitioner of an opportunity to place material evidence in support of her complaint. In support of his submissions, learned counsel places reliance upon the decision of the Supreme Court in *Kailash Vijayvargiya v. Rajlakshmi Chaudhuri and Others*, reported in (2023) 12 SCC 1. On these grounds, interference with the impugned order is sought.

5. Heard learned counsel for the petitioner and perused the impugned orders.

6. From the pleadings made and documents annexed along with this petition it is apparent that the complaint was filed on 02.07.2025; preliminary evidence of complainant/petitioner herein was recorded on 25.08.2025 and during her preliminary evidence, she exhibited documents in support of her case. However, neither in the complaint nor in preliminary statement petitioner has pleaded/stated that the marriage video or voice recording of the parties to proceeding had been sent to a forensic consultant for examination. Application seeking to place additional evidence on record was filed subsequently, along with pen drive and forensic consultant's report received on 24.04.2026.

7. Considering the stage of proceedings and absence of any reference to proposed additional evidence/document in the complaint or preliminary statement, learned trial Court rejected

said application, expressing that permitting the complainant to introduce additional evidence could result in an unending process.

8. The revisional Court in its order has observed that an interlocutory order is an order which determines only a particular issue or procedural matter during the progress of a case but does not bring the principal dispute to an end. Accordingly, if an application is rejected by an order passed during pendency of proceedings and the proceedings are neither dismissed nor terminated as a whole, such an order will be treated as an interlocutory order. In case at hand, learned trial Court by the impugned order has only denied to take certain additional evidence on record sought to be produced by petitioner herein. The proceedings of main criminal complaint case still subsists and continues. The order of learned trial Court does not culminate the proceedings of complaint case as a whole or bring it to an end. Hence, it cannot be said to be a final order and it is purely an interlocutory in nature and being so, revision is not maintainable. Accordingly, the revisional Court, referring to various decisions of Hon'ble Supreme Court, has observed that "according to Section 397 (2) of CrPC (now Section 438 of BNSS), dismissed the revision filed by petitioner on the ground that the order rejecting application for taking additional

evidence on record is an interlocutory order and no revision is maintainable against the said order.

9. It is well settled that if the order under challenge culminates the proceedings as a whole or finally decides the rights and liabilities of the parties then the order passed is not interlocutory in spite of the fact that it was passed during any interlocutory stage. In case of **Amar Nath vs State of Haryana** reported in **(1977) 4 SCC 137**, Hon'ble Supreme Court interpreting the provisions of Section 397 (2) of Cr.P.C. held as under:-

> "It seems to us that the term "interlocutory order" in Section 397(2) of the 1973 Code has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or the liabilities of the parties. Any order which substantially affects the right of the accused, or decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provision in Section 397 of the 1973 Code. Thus, for instance, orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie under Section 397(2) of the 1973 Code. But orders which are

matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court."

10. Further, in case of **Madhu Limaye vs State of Maharashtra,** reported in **(1977) 4 SCC 551**, a three Judge Bench of Hon'ble Apex Court upon examination of several decisions including decision in case of **Amarnath (supra)** has made following observations with regard to criterion of interlocutory order:

> "Ordinarily and generally the expression 'interlocutory order' has been understood and taken to mean as a converse of the term 'final order'. In volume 22 of the third edition of Halsbury's Laws of England at page 742, however, it has been stated in para 1606:- "..... a judgment or order may be final for one purpose and interlocutory for another, or final as to part and interlocutory as to part. The meaning of two words must therefore be considered separately in relation to the particular purpose for which it is required.' In para 1607 it is said:-
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> > "In general a judgment or order which determines the principal matter in question is termed "final"."

It was further observed in said decision as under:-

> "An order which does not deal with the final rights of the parties, but either (1) is made before judgment, and gives no final decision on the matters in dispute, but is merely on a matter of procedure, or (2) is made after judgment, and merely directs how the declarations of

right already given in the- final judgment are to be worked out, is termed "interlocutory". An interlocutory order, though not conclusive of the main dispute, may be conclusive as to the subordinate matter with which it deals."

11. In case of **Sethuraman vs. Ratamanickam** reported in **(2009) 5 SCC 153**, it was observed:-

"5. Secondly, what was not realized was that the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311 Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Cr.P.C. The Trial Court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e., one on the application under Section 91 Cr.P.C. for production of documents and the other on the application under Section 311 Cr.P.C. for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), the revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed."

12. The same view has been followed and reiterated in subsequent decision in case of Bhaskar Industries Ltd. v. Bhiwani Denim & Apparels Ltd., reported in (2001) 7 SCC 401, relevant paras of which are reproduced herein below:-

> "8. The interdict contained in Section 397(2) of the Code of Criminal Procedure (for short "the Code") is that the powers of revision shall not be exercised in relation to any interlocutory order. Whether an order is interlocutory or not, cannot be decided by merely looking at the order or merely because the order was passed at the interlocutory stage. The safe test laid down by this Court through a series of decisions is this: if the contention of the petitioner who moves the superior court in revision, as against the order under challenge is upheld, would the criminal proceedings as a whole culminate? If they would, then the order is not interlocutory in spite of the fact that it was passed during any interlocutory stage.
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> 9. A three-Judge Bench of this Court in Madhu Limaye v. State of Maharashtra, 1997 (4) SCC 551 laid down the following test: (SCC p.560, para 15) "An order rejecting the plea of the accused on a point which, when accepted, will conclude the particular proceeding, will surely be not an interlocutory order within the meaning of Section 397(2)".

13. Again in case of **Girish Kumar Suneja v. CBI,** reported in **(2017) 14 SCC 809** Hon'ble Supreme Court referring the judgment of **Madhu Limaye (supra)**, has observed in Para-21 as under:-

> “21. The concept of an intermediate order was further elucidated in Madhu Limaye v. State of Maharashtra [Madhu Limaye v. State of Maharashtra, (1977) 4 SCC 551 : 1978 SCC (Cri) 10] by contradistinguishing a final order and an interlocutory order. This decision lays down the principle that an intermediate order is one which is interlocutory in nature but when reversed, it has the effect of terminating the proceedings and thereby resulting in a final order. Two such intermediate orders immediately come to mind—an order taking cognizance of an offence and summoning an accused and an order for framing charges. Prima facie these orders are interlocutory in nature, but when an order taking cognizance and summoning an accused is reversed, it has the effect of terminating the proceedings against that person resulting in a final order in his or her favour. Similarly, an order for framing of charges if reversed has the effect of discharging the accused person and resulting in a final order in his or her favour. Therefore, an intermediate order is one which if passed in a certain way, the proceedings would terminate but if passed in another way, the proceedings would continue.

14. According to above judicial pronouncements of Hon’ble Supreme Court, it is clear that if an order is passed in a pending proceeding or a trial and it does not substantially affects the right of a party or terminate the proceeding finally, then that order shall be considered as an interlocutory order.

15. In case at hand, rejection of application of petitioner for taking additional evidence on record at the pre-cognizable stage by

learned trial Court, cannot be termed as an order that substantially affects any right of the petitioner or decides any right of the parties. Having regard to the nature of relief sought by petitioner in the application filed before the trial Court i.e. for taking additional evidence on record, it is evident that the order impugned challenged before the learned revisional Court is purely interlocutory in nature, against which no revision would lie. Hence, in the considered opinion of this Court, the learned revisional Court has rightly held the revision petition filed by the petitioner to be not maintainable.

16. For the foregoing, this Court finds no illegality, perversity, or jurisdictional error in the impugned orders passed by the Courts below warranting interference under Section 528 of the BNSS.

17. Accordingly, the petition is dismissed. However, the petitioner will be at liberty to challenge the order dated 30.6.2026 passed by learned trial Court in accordance with law.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-