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Single Bench

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH

AT BILASPUR

Cr.M.P. NO. 552 /2008

PETITIONERS-

- 1) Umesh Mallewar Aged 43 years
S/o. Tulsi Ram Mallewar,
- 2) Smt Anita Mallewar W/o
Umesh Mallewar, Aged About
37 years.
Both are resident of
S.R.P.Chowk Shankar
Nagar Raipur Tahsil &
District Raipur (C.G.)

P.R. No. 5232/08
Presented by Shri. Merisha Chhetri
Dated 28/11/08

VERSUS

RESPONDENTS:-

- 1) Smt Shardha Mallewar W/o.
Shri Madhav Mallewar, Aged 31 yrs.
- 2) Madhav Mallewar S/o. Shri
Tulsi Ram Mallewar, Aged 45 yrs.
Both are resident of
S.R.P.Chowk Shankar
Nagar Raipur Tahsil &
District Raipur (C.G.)
- 3) State of C.G. Through
District Magistrate Raipur
Chhattisgarh

RECEIVED
28/11/08
Clerk to A.C. BILASPUR

PETITION UNDER SECTION 482 OF THE CODE OF
CRIMINAL PROCEDURE FOR QUASHMENT OF ORDER
DATED 18/08/2008 PASSED BY THE COURT OF ELEVENTH
ADDITIONAL SESSIONS JUDGE RAIPUR IN CRIMINAL
REVISION NO.32/2008 BETWEEN SMT. SHARDHA
MALLEWAR AND ANOTHER VS STATE OF CHHATTISGARH
AND TWO OTHERS

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr.M.P.No.552 of 2008

Petitioners

1. Umesh Mallewar
2. Smt.Anita Mallewar

Versus

Respondents

1. Smt.Shardha Mallewar
2. Madhav Mallewar
3. State of C.G.

(Petition under Section 482 of the Cr.P.C.)

Mr.Y.C.Sharma, counsel for the petitioners.

Mr.S.Imtiyaz Ali, counsel for respondents No.1 and 2.

Mr.Arvind Shukla, Panel Lawyer for respondents No.3/State.

(SB: Hon'ble Mr. T.P. Sharma, J.)

ORDER
(30-3-2012)

1. By this petition under Section 482 of the Code of Criminal Procedure the petitioners have prayed for quashment of the order dated 18.8.2008 passed by the 11th Additional Sessions Judge, Raipur, in Criminal Revision No.32/2008, whereby the 11th Additional Sessions Judge has reversed the order dated 10.3.2008 passed by the Sub Divisional Magistrate, City Raipur, in Criminal Case No.784/2003 on the ground that at the time of passing of order under Section 145(1) of the Code of Criminal Procedure the Sub Divisional Magistrate has not considered the fact that whether there was any endanger or likelihood of breach of peace relating to possession of immovable property.
2. I have heard learned counsel for the parties, perused the order impugned and records of the Courts below.
3. At the outset, learned counsel appearing for both the parties submit and admit that while passing the order impugned and reversing the order of the Sub Divisional Magistrate, the 11th Additional Sessions Judge has committed illegality and has not considered the material



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available on record relating to endanger or likelihood of breach of peace relating to possession of immovable property.

4. Records of the Courts below also support the aforesaid submission of the parties.

5. Material available on record clearly reveals that while passing the order under Section 145(1) of the Code of Criminal Procedure the Sub Divisional Magistrate has not committed any illegality. Therefore, the revisional Court ought to have considered the revision on its merit, specially relating to possession of the parties on the relevant date.

6. Consequently, the petition deserves to be allowed and is hereby allowed and order dated 18.8.2008 passed by the 11th Additional Sessions Judge, Raipur, in Criminal Revision No.32/2008 is hereby quashed. Case is remitted to the Court of 11th Additional Sessions Judge, Raipur or its successor-in-office for passing the order afresh after providing complete opportunity of hearing to the parties. Parties shall remain present before the 11th Additional Sessions Judge, Raipur or its successor-in-office on 24.4.2012.

Sd/-
T.P. Sharma
Judge

