

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P No. 254 of 2016**

Rahul Agrawal S/o Deendayal Agrawal Aged About 24 Years  
Occupation Business, R/o Adarsh Hardware, Mohalla Aaatoli Katni  
Ambikapur Sitapur Gumla, Main Road, National Highway, Sitapur,  
Police Station & Tahsil Sitapur, Civil & Revenue District Surguja,  
Chhattisgarh.

**---- Petitioner****Versus**

1. Prakash Mali S/o Shri Krishna Mali Aged About 22 Years Occupation  
None, R/o Village Aamatoli, Sitapur, Police Station & Tahsil Sitapur, Civil  
& Revenue District Surguja, Chhattisgarh.
2. Dharmendra Sharma S/o Late Harendra Sharma Aged About 23 Years  
Occupation None, R/o Village Aamatoli, Sitapur, Police Station & Tahsil  
Sitapur, Civil & Revenue District Surguja, Chhattisgarh.
3. State Of Chhattisgarh Police Station Sitapur, Civil & Revenue District  
Surguja Chhattisgarh.

**-----Non-Applicants**


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For Petitioner:	Shri SD. Singh, Advocate.
For Respondent/State:	Smt Smita Ghai, Panel Lawyer.

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**Single Bench:**      **Hon'ble Shri P. Sam Koshy, J**  
**Order On Board**

**29.4.2016**

1. The present petition under Section 482 Cr.P.C has been filed  
challenging the order dated 27.8.2014 passed by the 4th Additional Sessions  
Judge, Ambikapur in Criminal Revision No.23/2014 rejecting the Revision  
Petition.

2. The factual matrix of the case as placed by the Petitioner is that on  
24.12.2010 when the Petitioner along with his younger brother Adarsh Agrawal  
was going from Sitapur to Village Sontarai on motorcycle bearing registration  
No.CG/15/CC/4019, it was dashed by another motorcycle bearing registration  
No.CG/15/CH/9348 owned by Respondent No.2-Dharmendra Sharma and

driven by Respondent No.1 - Prakash Mali as a result of which, the pillion rider on motorcycle driven by Prakash Mali sustained injuries and later on succumbed.

3. According to the Petitioner, they had immediately tried to get the complaint lodged against Respondents No.1 & 2 at PS. Sitapur which the police authorities had refused and therefore he had to file a complaint case before the Judicial Magistrate, Sitapur against Respondents No.1 & 2 for registering a case. The Judicial Magistrate, Sitapur vide its order dated 9.5.2014, had rejected the same holding that there were material contradictions in the statement of the complainant/Petitioner as well as the two witnesses that he had cited.

4. The Trial Court also found that from the First Information Report in respect of the same accident, it is revealed that it was the younger brother of the Petitioner namely Adarsh Agrawal, a minor, who was driving the vehicle in a rash and negligent manner and for which Criminal Revision No.258/2010 for the offence punishable under Section 304-A IPC has already been filed. Subsequently, it appears that the present Petitioners are making effort for filing a counter case against the complainant in the said First Information Report without any substance.

5. The said order dated 9.5.2015 passed by the Judicial Magistrate, Sitapur was put to challenge in a Revision Petition i.e. Criminal Revision No.23/2014 before the 4th Additional Sessions Judge, Ambikapur and the Revisional Court also vide impugned order dated 27.8.2014, rejected the same affirming the order dated 9.5.2015 passed by the Judicial Magistrate, Sitapur.

6. Learned Counsel for the Applicant Petitioner submits that the said order

passed by the two Courts below are illegal and contrary to the evidence which has come on record. He further submitted that the Court below has committed grave error of law to the extent that once the accident is admitted and that there is specific averment made by the present Petitioner against Respondents No.1 & 2 in respect of the same accident, the police authorities ought to have registered the complaint. When the police authorities have failed to do so, the Trial Court should have entertained the application and should have registered the same. It is also submitted that the order passed by the Trial Court was illegal without application of mind.

7. Learned State Counsel however opposing the Petition submits that there does not appear any infirmity in the two orders passed particularly for the reason that both the Courts below have given specific reasons while rejecting the application as well as the Revision Petition.

8. Having considered the rival contentions put forth on either side and on perusal of the two orders passed by the two Courts below more particularly the order dated 9.5.2015 passed by the Judicial Magistrate, Sitapur, it clearly reflects that the Trial Court had perused the entire record as also had considered the submissions put forth by the Petitioner/Complainant and has reached to a specific conclusion that no case is made out. Further from the order of the Trial Court itself, it is evidently clear that in fact there were material and substantial contradictions in the statement of the Petitioner/Complainant as well as that of witnesses who had made a statement before the Court below at the time of lodging of the complaint. It further reflects that there is already a finding of fact to the extent that the statement made by the eye-witnesses was contrary to the submissions made by the Petitioner in the complaint. In the light of the finding of the facts arrived at by the Trial Court

and also the fact that the submissions put forth by the Petitioner are all duly considered by the revisional Court, this Court does not find any good ground made out calling for interference of the order under challenge.

9. Accordingly, the instant Petition, being devoid of merits, the same is dismissed.

Sd/-

(P. Sam Koshy)

**JUDGE**

Priya