

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 15th OF MAY, 2024

MISCELLANEOUS CRIMINAL CASE No. 41621 of 2023

BETWEEN:-

**ANIL MARMAT S/O G.R. MARMAT, AGED
ABOUT 47 YEARS, OCCUPATION:
GOVERNMENT EMPLOYEE R/O 19 SOUTH
EXTENSION COLONY LOKMANYA GRAH
NIRMAN SAMITI GEHUKHEDA KOLAR EOAD
BHOPAL (MADHYA PRADESH)**

.....APPLICANT

(BY SHRI QASIM ALI - ADVOCATE)

AND

**S.D. RICHARIYA S/O LATE HARGOVIN
RICHARIYAI, AGED ABOUT 64 YEARS, R/O E/G-
9/3 CHAR IMLI BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(NONE)

.....
*This application coming on for admission this day, the court passed
the following:*

ORDER

This application under Section 482 of Cr.P.C. has been filed
seeking following reliefs:

- “1. To call for relevant records of the criminal case registered against the Applicant, registered as Regular Criminal Trial No.12933/2022, pending before the Court of the Ld. XVI Judicial Magistrate First Class, Bhopal (M.P.).
2. To set aside the impugned order dated 12.10.2022 for issuance of summons and taking cognizance against the Applicant

passed by Ld. XVI Judicial Magistrate First Class, Bhopal (M.P.) in Regular Criminal Trial No.12933/2022 and consequently quash the criminal proceedings instituted against the Applicant.

3. To quash the impugned order dated 11.05.2023 whereby charges were framed against the Applicant passed by Ld. XVI Judicial Magistrate First Class, Bhopal (M.P.) in Regular Criminal Trial No.12933/2022.
4. To Grant any other relief which the Hon'ble Court may deem fit and necessary in the prevailing circumstances and according to the rules of natural justice.”

2. By this application, the applicant is challenging the order by which the process was issued by the Magistrate.

3. Undisputedly, the order issuing process is an intermediate order and not an interlocutory order as held by the Supreme Court in the case of **Rajendra Kumar Sitaram Pande and Others Vs. Uttam and Another** reported in **AIR 1999 SC 1028**.

4. It appears that applicant had filed an application for discharge, which was rejected and the substance of accusation was read over to the applicant, which was challenged by applicant by filing Revision. The Revisional Court has rejected the said Revision on the ground that Revision is not maintainable against the reading over of substance of accusation. Thus, it is submitted by counsel for applicant that in case if he files a Revision against the order of issuing process/summons, then the Revisional Court may reject the Revision as not maintainable.

5. The aforesaid submission made by counsel for applicant is misconceived. The order issuing process is different from order by

which the substance of accusation is read over to the accused. The order of issuing process is undisputedly a revisable order.

6. Under these circumstances, this Court is of considered opinion that since applicant has an alternative and efficacious remedy of assailing the order dated 12.10.2022 by filing a Revision, accordingly, no good ground has been made out for bypassing the statutory remedy.

7. Accordingly, with liberty to the applicant to file a Revision, this application is **dismissed**.

8. For the purposes of calculating the period of limitation it is made clear that the time spent by applicant before this Court i.e. from 12.09.2023 till today shall be excluded.

(G.S. AHLUWALIA)
JUDGE

SR*