

1
7
3

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Cr. Revision No.....671...../2006

Single Bench

APPLICANT

K.C. Jain Madvaiya
S/o- B.L. Jain Aged about 65 years
R/o- Chithraguptanagar, Bhopal
(M.P.) (Complainant in the court
below)

VERSUS

NON-APPLICANTS:

- 1) State of Chhattisgarh
Through: - ~~Chief Judicial Magistrate~~ ^{Police Station-Geedam}
Tah - Dantewada District Dantewada
(C.G.)
- 2) Tulsidas @ Suraj Mandavi
S/o- Phaguram Madavi Aged about
33 years, R/o- Lampas, Geedam
P.S. Geedam District Dantewada
(C.G.)
- 3) Mahendra Kumar Singh, S/o-
Bahadur Singh Aged about 30 years
R/o- Geendam P.S. Geedam District
Dantewada (C.G.)

Filed on 02/11/06
by Shri Swale Shukla
Admitted 20/11/06
A.G. R.W.

RECEIVED-COPY
2/11/06
CLERK to A. G. BILASPUR

CRIMINAL REVISION NO. 397 READ WITH SECTION 401 OF
Cr.P.C.



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 671 of 2006**

K.C.Jain Madvaiya

---- Applicant

Versus

State Of Chhattisgarh And Ors.

---- Respondents

None for the applicant.

Shri Dilman Rati Minj, Dy.G.A. for the State.

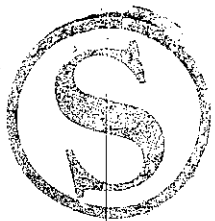
Ms. Preeti Yadav, counsel for respondents 2 and 3.

Hon'ble Shri Manindra Mohan Shrivastava, J.**Order On Board****08/11/2016**

This revision arises out of order dated 15/09/2005 passed by the Chief Judicial Magistrate, Dantewada, by which, respondents 2 and 3 have been acquitted of the charges of commission of offence under Section 506 (B), 34, 332, 294, 341, 353, 323 of IPC.

2. This revision was earlier dismissed for want of prosecution and later on, it was restored to its original number. Though an application for urgent hearing was moved which was also allowed, whereafter, this revision was listed for final hearing. When the case was called on for hearing on 07/11/2016, pass over was sought by learned counsel for the applicant. However, today, no one is present on behalf of the applicant.

3. Respondents 2 and 3 are alleged to have assaulted the applicant – K.C.Jain on 13/10/2000. It has been alleged that while applicant / victim was performing his



official duty, he was obstructed, abused, threatened and assaulted.

4. In order to prove its case, the prosecution examined as many as eight witnesses. Thereafter, the accused were also examined in respect of the incriminating evidence and circumstances appearing against them and they denied having committed any offence and have stated that they have been falsely implicated.

5. Learned Trial Court acquitted respondents 2 and 3 taking into consideration that none of the prosecution witnesses, stated to be eye witnesses, have supported the prosecution allegation of respondents 2 and 3 assaulting the applicant. Accordingly, respondents 2 and 3 have been acquitted.

6. The grounds raised in the revision against acquittal are that though the prosecution examined various witnesses, the victim was not summoned. Though the complainant had already informed the Court regarding change of his residential address, the applicant, who was the victim, his non-examination in trial has resulted in grave injustice, as respondents 2 and 3, who according to the applicant assaulted him, have been acquitted without examining the applicant as one of the witnesses of the prosecution.

7. A perusal of the order sheets of the Court below shows that on more than one occasions, summons, followed by bailable warrant were issued to the prosecution witnesses and the prosecution witnesses except the applicant, appeared before the Court and examined. Order sheet dated 07/06/2005 reveals that summons, which was issued to the applicant was refused to be accepted. Thereafter, bailable warrant was issued followed by warrant of arrest. However, despite all steps taken by the Trial Court to seek production of the applicant, the applicant was not produced before the Court by the prosecution and finally,

opportunity to lead evidence by the prosecution was closed by the Court below.

8. In the present case, independent witnesses of the prosecution have been examined. Those witnesses are Bharatlal (PW1), Bande Thakur (PW2), Peelaram (PW3), Divesh Thakur (PW4) and Pitambar (PW5). All these witnesses were cited by the prosecution as eye witnesses of the case, however, none of them have supported the case of the prosecution. All the witnesses of the prosecution have stated that no incident took place in their presence.

9. Taking into consideration that the Trial Court has recorded in the order sheet that the applicant himself refused to receive the summons and that despite bailable warrant and warrant of arrest issued, he was never produced before the Court and the Trial Court, after considering all the above aspects, closed the prosecution evidence, I am not inclined to interfere with the impugned order.

10. The revision is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge