

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 949 of 2015**

1. Bablu Yadav S/o Musafir Yadav, aged about 30 years, R/o Camp 1, Adarsh Nagar, P.S. Chhawani, Distt. Durg, Chhattisgarh.
2. Ravindra Yadav S/o Shivprasad, aged about 19 years, R/o Camp 1, Adarsh Nagar, P.S. Chhawani, Distt. Durg, Chhattisgarh.
3. Vishal Yadav S/o Kamla Yadav, aged about 16 years, R/o Camp 1, Adarsh Nagar, P.S. Chhawani, Distt. Durg, Chhattisgarh.
4. Mahavir Yadav @ Bechai S/o Late Bathmat, aged about 27 years, R/o Camp 1, Adarsh Nagar, P.S. Chhawani, Distt. Durg, Chhattisgarh.
5. Sunil Yadav S/o Kamla Yadav, aged about 21 years, R/o Camp 1, Adarsh Nagar, P.S. Chhawani, Distt. Durg, Chhattisgarh.
6. Sanjay Kumar Sharma S/o Jogender Sharma, aged about 24 years, R/o Camp 2, Bhairo Basti, P.S. Chhawani, Distt. Durg, Chhattisgarh.

---- Applicants**Versus**

1. State of Chhattisgarh through the District Magistrate, Distt. Durg, Chhattisgarh.
2. Bheem Singh S/o Shivdhari Singh, aged about 24 Years, R/o Janta General Stores, Shardapara, Baikunthdham, Camp 2, P.S. Chhawani, Tah. & Distt. Durg, Chhattisgarh.
3. Balwant Singh S/o Shivdhari Singh, aged about 33 years, R/o Janta General Stores, Shardapara, Baikunthdham, Camp 2, P.S. Chhawani, Tah. & Distt. Durg, Chhattisgarh.
4. Shivdhari Singh S/o Late Rajdev Singh, aged about 64 years, R/o Janta General Stores, Shardapara, Baikunthdham, Camp 2, P.S. Chhawani, Tah. & Distt. Durg, Chhattisgarh.

---- Respondents

For Applicants	:	Shri B. P Singh , Advocate
For Respondent no.1	:	Shri Neeraj Jain, G.A.
For Respondent nos. 2 to 4 :	:	Shri N. S. Dhurandhar, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/07/2016**

The present revision petition has been preferred against the order dated 27.07.2015 passed by the Additional Sessions Judge, Durg in Criminal Revision No.0000093/2015 whereby the Revisional Court has set

aside the order dated 27.05.2015 passed by the JMFC, Durg in Criminal Complaint Case No. 3486/2015.

2. The facts in brief are that the applicants in the present case lodged a complaint before the Court of JMFC, Durg which was registered as Criminal Complaint Case No. 3486/2015. By the said complaint the applicants who were complainants had sought for a direction from the trial Court for initiating proceedings against the respondents under Sections 147, 148, 149, 307 and 120B of IPC. Based on the said complaint, the trial Court after the statements of the complainants were recorded, vide its order dated 27.05.2015 registered a case against the respondents for the offence under Sections 307 and 120B of IPC and ordered for issuance of summons to the respondents.

3. This order dated 27.05.2015 was questioned by the respondents who were the accused persons in the complaint case by way of a revision petition before the Additional Sessions Judge, Durg challenging that the proceedings drawn by the trial Court was not proper, legal and justified in as much as the entire action initiated by the applicants was to counter a criminal case which was registered against the applicants for the offence under Sections 147, 148, 149, 307, 302, 114 and 120B of IPC in Crime No. 368/2014. It was alleged by the respondents before the Revisional Court that the said complaint Annexure P-2 was filed by the applicants after more than about 6 months from the date of registration of the FIR in Crime No. 368/14 against the applicants. It was also alleged by the respondents before the Revisional Court that there were major contradictions in the complaint and the statement made before the JMFC at the time of registration of the complaint which itself prima facie create great element of doubt in respect of the case of the applicants and the complaint. Considering these facts the Revisional Court vide its order dated 27.07.2015 allowed the Revision petition and remitted the matter

back to the JMFC for reconsideration of the complaint and the statements which have been adduced by the complainants at the time of registration of the complaint. The Revisional Court also directed that after hearing both the parties the trial Court shall proceed in accordance with law taking into consideration the merit of the case. It is this order dated 27.07.2015 which has been challenged by the applicants in the present revision petition.

4. Counsel for the applicants submits that the remission of the matter to the JMFC is bad in law. According to the counsel for the applicants, the Revisional Court cannot remit the matter back to the Magistrate Court as the Magistrate had already taken a view vide its order dated 27.05.2015 and therefore there was no scope of reviewing of its own decision. Thus, the Magistrate itself is in difficulty for reviewing his own view which he had taken on an earlier occasion and therefore, prays that the present revision may be allowed and the impugned order to that extent may be quashed.

5. Counsel for the respondents 2 to 4 opposing the present revision petition submits that the impugned order dated 27.07.2015 is a speaking order and does not warrant any interference. He submits that prima facie, the applicants before the Revisional Court i.e. the present respondents have been able to convince the Court that no case whatsoever is made out against the respondents herein and the entire complaint has been filed only to counter the case under Section 302 IPC registered against the applicants. He submits that the Revisional Court realizing this fact and also taking note of the discrepancies and contradictions in the complaint and the statement recorded at the time of registration of the complaint has rightly sent back the matter to the JMFC. Hence, prays for dismissal of the revision petition.

6. Having considered the total facts and circumstances of the case and on perusal of the orders of the two Courts below, this Court is of the

opinion that the Revisional Court has not committed any error on law or on facts while passing the impugned order in as much as it is well within the power and competence of the Revisional Court to call for the records and to peruse whether the Magistrate Court at the time of registration of the complaint had taken note of the entire facts which have been brought on record. If certain discrepancies has been detected by the Court below, the Revisional Court has all the power to send back the matter to the trial Court for reconsideration of the same which in the opinion of this Court is fully justified, proper and legal.

7. Accordingly, the present Criminal Revision being devoid of merit stands rejected.

8. However, it is directed that the JMFC, Durg shall pass a fresh order strictly in accordance with law as ordered by the Revisional Court.

9. The Registry is directed to send back the records forthwith to the Court below.

Sd/-
(P. Sam Koshy)
JUDGE