

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 1149 of 2015

Vivek Kumar Dubey S/o Late Ravishankar Dubey Aged About 28 Years R/o Bhagirathi, Temple Premises, Nayapara, P.S. Golbazaar, Raipur, Distt. Raipur, Chhattisgarh. (Vivek Kumar Dubey As Mentioned In The Order Impugned But In Complaint And Other Proceeding Mentioned As Vivek Dubey)

---- Petitioner

Versus

1. Smt. Kamla Devi & Ors. W/o Awadh Narayan Tripathi Aged About 62 Years R/o 15/218, New Mandi Ward, Kapa, Raipur, Tahsil & Distt. Raipur, Chhattisgarh.
2. Arun Kumar Dubey S/o Late Ravi Shankar Dubey Aged About 40 Years R/o Bhagirathi, Temple Premises, Nayapara, P.S. Golbazaar, Raipur, Distt. Raipur, Chhattisgarh.
3. Krishna Mohan S/o Late Ravi Shankar Dubey Aged About 38 Years R/o Bhagirathi, Temple Premises, Nayapara, P.S. Golbazaar, Raipur, Distt. Raipur, Chhattisgarh.
4. Ashwani Dubey S/o Late Brijnath Dubey Aged About 40 Years R/o House No. I -36, Anupam Nagar, P.S. Civil Lines, Raipur, Chhattisgarh.
5. State Of Chhattisgarh & Ors. Through District Magistrate, Raipur, Chhattisgarh. (Respondent No. 5 Is Not Party Before Trial Court Since Party Impleaded In The Revision Hence Joined Here, Respondent No. 2 To 4 Are Party In The Trial Court, Therefore They Have Been Arrayed In The Petition For Protecting Their Interest)

... Respondents

For Petitioner	:	Mr. Malay Kumar Bhaduri, Advocate.
For Respondents No. 2 to 4	:	Mr. Azad Siddiqui, Advocate.
For Respondent-State	:	Ms. S. Ghai, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/05/2016

1. The present petition under Section 482 of CrPC has been filed challenging the impugned order dated 29.09.2015 passed by the Second Additional Sessions Judge, Raipur in Criminal Revision No. 102/2013, whereby the Court below has rejected the Revision Petition preferred by the Petitioner against the registration of offence dated 11.02.2013 by

J.M.F.C. Raipur in Criminal Case No. 129/2013 under Sections 420/511, 467 and 471 of I.P.C.

2. Learned Counsel for the Petitioner submits that J.M.F.C. Raipur at the first instance on 11.02.13 ordering the registration of the compliant itself is bad in law for the reasons that there was no additional evidence that has been brought on record in addition to the statements the complainant had made and he further submits that on the same set of statements the Court below had on the first occasion dismissed the complaint holding that no sufficient material had been brought. The Revisional court has also not appreciated the contents of the submission made by the Petitioner in the right perspective, therefore, order of the Revisional Court is also bad in law. According to the learned Counsel for the Petitioner the Court below has committed an error of law in now registering the compliant as all the allegations of the complainant are the same without any additional piece of evidence which was there in the original complaint on the basis of which the Court below had first rejected the complaint.

3. On perusal of the record it is apparently clear that the complainant after the dismissal of the complaint at the first instance on 11.04.2008 had preferred a Revision Petition and the Revision Petition also got dismissed on 22.12.2008. Against both the orders complainant preferred a Criminal Revision before this Court registered as Cr.R 60/2010 and this Court on 19.3.2012 allowed the Petition and held that the registration of the complaint and rejection of the revision were bad in law and remanded the matter back to the Court below for passing a fresh order after providing an opportunity of hearing to the complainant with regard to the order taking cognizance and issuance of process against Respondents No. 2 to 4. This order of the High Court has also been challenged in the Supreme

Court vide S.L.P. No. 3374/2012, however the said SLP was later on withdrawn on 30.07.2014 thereby the order of the High Court has attained finality. Based on the directions given by the High Court on 19.3.2012. The Court below again heard the complainant and thereafter has ordered for registration of the complaint on 11.02.2013. This Court in view of the specific directions of the High Court in Cr.R No. 60/10 vide its order on 11.3.2012 is of opinion that there is no illegality or infirmity committed by the Court below while ordering registration of complaint on 11.2.2013. Even otherwise, it is registration of complaint which is under challenge at this juncture, where the Petitioner-accused would have all the opportunity to appear before the Court below to adduce his evidence to prove that either the complaint is not maintainable or for that matter there is no case made up against the Petitioner. Accordingly, this Court does not find any illegality in the order passed by the Court below calling for interference.

4. The Petition therefore being devoid of merit the same is dismissed.

Sd/-

(P. Sam Koshy)
Judge