

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 187 of 2017**

- Smt. Dulari Kesari W/o Shri Krishnakant Kesari, Aged About 56 Years R/o Main Raod, Dayalband, Police Station- City Kotwali, Tahsil & District- Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. Sandeep Bole S/o Sawani Bole Aged About 25 Years R/o Nayapara, Nariyara Kothi, Dayalband, Police Station City Kotwali, District Bilaspur, Chhattisgarh.
2. Salini Bole W/o Sandeep Bole Aged About 29 Years R/o Nayapara, Nariyara Kothi, Dayalband, Police Station City Kotwali, District- Bilaspur, Chhattisgarh.
3. Aasha Gangotri W/o Laxmi Narayan Ganngotri Aged About 52 Years R/o Dayalband, Police Station City Kotwali Tahsil & District Bilaspur, Chhattisgarh.
4. Sonali Gangotri D/o Laxmi Narayan Ganngotri Aged About 23 Years R/o Dayalband, Police Station City Kotwali Tahsil & District Bilaspur, Chhattisgarh.
5. Shyam Narayan Gangotri S/o Pannalal Gangotri Aged About 45 Years R/o Dayalband, Police Station City Kotwali Tahsil & District Bilaspur, Chhattisgarh.
6. Rajendra Kumar @ Imran S/o Harishchand Kumar Aged About 40 Years R/o Dayalband, Police Station City Kotwali Tahsil & District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner

Mr. Rahul Mishra, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****09.02.2017**

1. The present Cr.M.P. has been preferred against the order dated 06.01.2017 passed by the Sessions Judge, Bilaspur in Criminal

Revision No. 175/2016 and also the order dated 20.09.2016 passed in unregistered complaint case by the Judicial Magistrate First Calss, Bilaspur (C.G.) whereby both the Court below have rejected the complaint which was preferred by the present Petitioner against the Respondents.

2. Learned Counsel for the Petitioner complainant submits that the complaint which was lodged before the authorities concerned i.e. the Magistrate, there was ample evidence against the Respondents prima facie to establish the commission of the offence and in the light of the prima facie evidence which have been brought on record the Court below should not have rejected the complaint. Learned Counsel for the Petitioner relied upon the judgment of the Supreme Court in the case of **Shivjee Singh v. Nagendra Tiwary and Others** reported in **2010 (7) SCC 578**.
3. Learned Counsel for the Petitioner referring to the said judgment submits that for the registration of the complaint all that the Court is to see is whether prima facie material has been brought before the Court for registration of the complaint. The Magistrate should not have refused registration of the complaint at that stage of time without taking into consideration the prima facie evidence which had come on record.
4. However on perusal of the record it appears that the Court below has in fact taken into consideration the evidence which have come on record and also the other documents which were brought on record particularly the report of the police authorities. From the preliminary report submitted by the Police authorities it was found that against son of the present complainant i.e. Mahendra Keshari and Surendra

Keshari, the Respondent No.1, Sandeep Bhole had already lodged report which was registered at Police Station, City Kotwali, Bilaspur. It appears that the present complaint which has been lodged by the mother of the accused persons in the said complaint has been filed with an intention of countering the complaint lodged by Respondent No.1. Accordingly the Court below found that there was no sufficient ground prima facie for establishing the commission of the offence and refused to register the complaint. The said order was also subjected to revision where the Revisional Court, which also found that from the nature of the complaint and the statement given by the complainant it does not disclose the actual abusive words used on part of the Respondents in the present case. The Revisional Court also finding the nature of the complaint and the statement of the complaint does not disclose essential ingredients which are required for making out offence under section 147, 148, 452, 294 and 506/34 of the IPC, rejected the Revision preferred by the Petitioner.

5. Taking into consideration the two orders under challenge it clearly reflects that both the Court below have taken into consideration the statement which have come on record before the Court below at the time of registration of the complaint and also considering inquiry report submitted by the police authorities in addition the Court below has also taken into consideration the fact that there was an earlier complaint lodged by the Respondent No.1 against the son of the present Petitioner before the police station on 30.01.2016 which establishes that the present complaint was being filed as counter attack to the complaint lodged by Respondent No.1.
6. In view of the same this Court is of the opinion that the Court below

has not committed any illegality or infirmity while reaching to the said conclusion. The Cr.M.P. thus being devoid of merits deserves to be rejected.

7. So far as the judgment cited by the Counsel for the Petitioner is concerned the said judgment would not be applicable in the facts of the present case for the reason that there is categorical finding in both the orders under challenge that the Court below did not find sufficient ground which would prima facie establish commission of the offence. Thus the said judgment relied upon by the Petitioner is distinguishable on its facts.
8. Accordingly the present Cr.M.P. being devoid of merits stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE