

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 376 of 2004

Santosh Kumar Mishra son of Devisahay Mishra, aged 39 years, R/o Mishra Aata Chakki, Jone 1 Market Bhilai, Khurshipaar, PS Chhawani, District Durg, CG

--- Applicant

Versus

1. Virendra Nath Dixit son of late Ishwari Prasad Dixit, aged about 55 years, R/o plot No. 64, Road No. 12, Smriti Nagar, PO Junwani, District Durg, CG
- 2 State of Chhattisgarh through DM Durg, CG

--- Respondents

For Applicant	-	Shri, Vivek Shrivastava Adv.
For Respondent No.1	-	Shri Devendra Kumar Shukla, Adv.
For Respondent No.2	-	Smt. M. Asha, PL

Order on Board by Hon'ble Smt. Vimla Singh Kapoor, J.

14.01.2009:

By this revision petition the applicant has assailed the order dated 13.04.2004 passed by Special Judge & Additional Sessions Judge, Durg in Criminal Revision No. 64/2002 setting aside the order dated 01.08.2000 passed by Judicial Magistrate First Class, Durg in Complaint Case No. 296/2000 taking cognizance of the offence under Sections 311, 420 and 506 (B) IPC and issuing summons against respondent No.1.

2. Facts of the case in short are that on the complaint made by the applicant herein against the respondent No.1 for threatening him and his wife to be implicated in a false case and also to be put to death if they did not return their money deposited by them in playing a game commonly known as BC on behalf of the wife of the applicant. Complaint also mentions

that when the wife of the applicant expressed her inability to discontinue the said game and requested for refund of Rs. 600/- paid by her as two installments of Rs. 300/- each, Smt. Rama and Poonam (mentioned in the complaint as accused No. 1 and 2) threatened her of complaining the matter to her husband (the applicant herein) and thus obtained gold ear ring, gold ring and silver anklets towards the payment of further installments made by them on her behalf. Respondent No.1 herein is also alleged to have threatened the complainant and his wife of implicating them in a false case and also of doing away with. Parents of respondent No.1 (who died during the Criminal Revision No. 64/2002 before the Special/Additional Sessions Judge) are also alleged to have created a nuisance by un-necessarily quarreling with the complainant and his wife.

3. Learned Magistrate took cognizance of the matter and issued summons to respondent No.1 as also his parents named above by order dated 01.08.2000. However, learned Revisional Court has set aside the order passed by learned Magistrate and discharged the respondent No.1 of the offence alleged against him. It is that order dated 13.04.2004 which is under challenge herein.

4. Considering the rival submissions made on behalf of the parties and the documents on record, finding recorded by the revisional Court that the main accused namely Rama and Poonam being the residents of Khurshipar whereas the respondent/accused is the resident of Smritinagar Junwani, how he could have threatened the complainant and his wife and what might have impelled him to do so, remains unproved. According to the complaint, the entire dispute appears to have arisen in February, 1996 whereas the allegation against the respondent No.1 herein of threatening the applicant and his wife of implication in a false case and also of being done away with

is said to have been made in between 20.10.1995 and 02.02.1996 but how he was concerned with the game of BC still remains a mystery. Even if the act of respondent No.1 is taken to be true at its face value, the sequence of events mentioned in the complaint do not tally therewith. In this view of the matter, the order impugned setting aside the findings recorded by learned Magistrate taking cognizance of the offence as mentioned above and then issuing summons to respondent/accused is just and proper. No interference in the same is necessary.

5. Revision thus fails and is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet
CRR No. 376 of 2004

Santosh Kumar Mishra **Versus** Virendra Nath Dixit and others

29-01-2019	Matter is listed for rectification of inadvertent typographical error in mentioning the date in the order passed on 14.01.2019 where it was mentioned as 14.01.2009. The error being bona-fide is hereby rectified. Let the date of the said final order be read as 14.01.2019 in place of 14.01.2009. Ordered so. Sd/- (Vimla Singh Kapoor) JUDGE
PAWAN	