

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 143 of 2005

Nirmala Kumari D/o. Late Shri S.P. Singh, Aged about 28 years,
Resident of quarter No. 8/C Street No.1, Street No.1, Sector -7,
Bhilai Nagar, Police Station Sector-6 Kotwali, Bhilai Nagar, Tahsil
and District Durg (C.G.)

Versus

1. State of Chhattisgarh through the District Magistrate Durg,
District Durg (C.G.)
2. Jawahar Mishra S/o. S.P. Mishra, Town Inspector, Police Station
Sector-6, Bhilai Nagar, Tahsil and District Durg (C.G.) (deleted)
3. Meena Chaudhar W/o. D.D. Chaudhar, Sub Inspector, Police
Station Sector-6, Bhilai Nagar Tahsil and District Durg (C.G.)
(deleted)

For the Applicant : Ms. Neha Verma, Advocate
on behalf of Mr. V.K. Pandey,
Advocate
For the Respondent : Ms. M. Asha PL
For the Respondent No.3 : Mr. Ajay Chandra, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

15.01.2019

1. This revision under Section 397 read with 401 of the Cr.P.C.
challenging the order dated 13.01.2005 passed by Special Judge
and Additional Sessions Judge, Durg, Distt. Durg in Criminal
Revision No. 71/2004 wherein the learned Additional Sessions Judge

has set aside the order of the learned Chief Judicial Magistrate Durg passed on 15.01.2004 in Criminal Case No. 381/2004 wherein cognizance was taken against the respondents for offence under Section 294,506(B),323,452 IPC.

2. The applicant/complainant filed a criminal complaint against the respondents alleging that on 23.12.2003 at about 11.30 pm in the night the respondent No. 2,3 and five other police persons after breaking the lock of the door forcible entered in her house, thereafter, they abused them by obscene words and committed *marpit* with them and stolen some ornaments and HMT watch from her house also.

3. After the incident, she informed to Police Station Durg but the Police has not taken any action against the respondents. Ultimately, the applicant has filed a criminal complaint case against the respondents under Section 200 CrPC before the Chief Judicial Magistrate Durg. The Chief Judicial Magistrate Durg after recording evidence and the statement of the complainant witnesses passed an order on 15.01.2004 to register the offence against the respondent No. 2 and 3 in Criminal Case No. 381/2004 under Sections 294, 506-B, 323 and 452 IPC.

4. The respondents preferred Criminal Revision No. 71/2004 before the Special Judge/ Additional Sessions Judge, Durg stating that they are police personnels and therefore, sanction of prosecution under Section 197 Cr.P.C was necessary. The learned Additional Sessions Judge after examining the material and after hearing the parties set aside the order passed by the Chief Judicial Magistrate Durg. Hence, this revision.

5. Learned counsel for the applicant submits that the order passed by the Revisional Court is contrary to the evidence available on record.

6. Counsel for the respondents, however, supports the findings recorded by the Revisional Court and submits that the impugned order was well merited and did not deserve any interference.

7. A bare perusal of the impugned order would reveal that cognizance of the offence was also taken without seeing that no permission was obtained prior to lodging the complaint under Section 197 Cr.P.C. From perusal of order dated 15.01.2004, it shows that the complaint was in-fact signed by the brother of the complainant, who was hailing from the criminal back ground, and not by herself. The complainant's brother did all this in order to protect vested interest by harassing the respondent No. 2 and 3 through making false complaint against them by keeping his sister at the forefront whereas the respondent No. 2 and 3 acting in discharge of their official duty. Taking into consideration the aforesaid facts and circumstances of the case, this Court is of the considered view that the impugned order is well merited. Accordingly, no interference is called for.

8. Being this the criminal revision being devoid of any substance and is dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE