

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1013 of 2015

1. Milap Kumar S/o Mohan Lal Yadav Aged About 23 Years R/o Ninka, P.S. Dharsiwa, Distt. Raipur, Chhattisgarh.
2. Bittu @ Khushpal Singh S/o Avtar Singh Gill Aged About 53 Years R/o House No. B/21, Sector - 2, Devendra Nagar, Raipur, Distt. Raipur, Chhattisgarh.
3. Harsh Gill, S/o Bittu @ Khushpal Singh, Aged About 20 Years, R/o Devendra Nagar, House No. B/21, Sector - 2, Devendra Nagar, Raipur, Distt. Raipur, Chhattisgarh.

---- Petitioners

Versus

State Of Chhattisgarh Through The Station House Officer, P.S. Pandri, Raipur Tah. & Distt. Raipur, Chhattisgarh.

---- Respondent

For Petitioners – Shri Ashish Surana, Advocate.
For Respondent/State – Shri Om.P. Sahu, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

6/11/2015

1. Petition is to quash charge sheet filed in Sessions Trial No.223/2014 pending before 9th Additional Sessions Judge, Raipur.
2. Learned counsel for the petitioners submits that incident happened on 30/10/2013 at about 7.30 wherein one Ajay Nirmalkar was alleged to be assaulted by the petitioners and thereafter immediately on his report FIR was registered under Section 294, 506-B, 323 read with 34 of IPC. Learned counsel for the petitioners submits that according to the MLC which was carried out immediately injuries were shown to be simple in nature and subsequently with the political influence since the report was made by the father of the victim to the higher police officer, Section 307 of IPC was added. He submits that the initial first examination report would tell the truth and further report of the Balaji Super Specialty Hospital would show that said document was tampered. He submits that under the

pressure section 307 of IPC has been added and there was no intention to kill. Consequently, entire charge sheet is liable to be quashed.

3. On the other hand, learned State counsel opposes the petition.

4. I have gone through the MLC wherein charge sheet has been filed. In MLC report three injuries have been pointed out on right upper nose, right upper lip and right back of chest, and subsequently report of Balaji Super Specialty Hospital dated 30/10/2013 with some correction is also part of the charge sheet wherein it was stated that injured was admitted to the ICU. Subsequently, statement of the Ajay Nirmalkar and the other witness also perused wherein it is stated that victim was assaulted by way of fist and slap also assaulted by way of club. I am not inclined to appreciate argument advanced by learned counsel for the petitioners as at the threshold it cannot be stated that documents filed by the prosecution have been manipulated. The court in exercise of power under Section 482 of Cr.P.C. cannot exercise jurisdiction to go into mini trial to discharge or quash charge sheet. Court has to proceed with assumption that materials brought on record by prosecution are true. Only probative value of materials has to be gone into to see if there is a prima facie case for proceeding against accused and considering the documents, this court is restrained to go deep into the matter and hold that materials would not warrant a conviction. Consequently, reading charge sheet would show that only on the basis of materials prima facie case appears to have been presented against the petitioners. Petitioners shall be at liberty to demolish case of the prosecution at the stage of evidence.

5. Consequently, petition has no merit and it is dismissed at the threshold at the admission stage itself.

Sd/-
(Goutam Bhaduri)
JUDGE

