

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION NO. 467 OF 2015**

Krishna Chaurasiya @ Rakesh, S/o Klailash Chand Chaurasiya, aged about 24 years, R/o Sonarpara, Digvijay College Road, P.S. Kotwali District Rajnandgaon C.G.

---Applicant**Versus**

State of Chhattisgarh, through the Police Station Lal Bagh, District Rajnandgaon, .C.G.

----Non-applicant

For Applicant	:	Mr. Vishnu Koshta, Advocate
For Non-applicant	:	Mr. O.P. Sahu, Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****30/06/2015**

1. Heard on the question of admission.
2. By this criminal revision applicant assails the order dated 05/05/2015 passed by Additional Session Judge (F.T.C.), Rajnandgaon (C.G.), framing charge for the offence punishable under Sections 354(a) (i) (ii), 354(d)(i) & 326(b) of the Indian Penal Code.
3. The applicant has been charge sheeted by Station House Officer, Lal Bagh, fact in brief, is that on 17/09/2014, at about 7:00 P.M., applicant harassed the complainant- Smt. Pooja Shrivastava and followed her and also thrown Acid upon her, which is offence punishable under Sections 354(a) (i) (ii), 354(d)(i) & 326(b) of the Indian Penal Code.
4. Learned Additional Session Judge (F.T.C.), Rajnandgaon by its order dated 05/05/2015 framed charge against the present applicant for commission of aforesaid offences.

5. Mr. Vishnu Koshta, learned counsel appearing for the applicant/accused would submit that there is no material against the applicant to frame charges and as such, the order framing charge and the charges framed deserves to be set aside.

6. Before proceeding further it would be appropriate to notice the relevant judgments of the Supreme Court with regard to jurisdiction of this Court to interfere with the order framing charge:-

7. In case of **State of Maharashtra v. Priya Sharan Maharaj and others**¹, the Supreme Court has held that at the stage of framing charge, Criminal Court has to find out whether there is ground for presuming that accused has committed offence or not to following effect:-

“8. The law on the subject is now well settled, as pointed out in **Niranjan Singh Punjabi vs. Jitendra Bijjaya (1990) 4 SCC 76**, that at Sections 227 and 228 the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken in their face value disclose the existence of all the ingredients constituting the alleged offence. The Court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case. Therefore, at the stage of framing of charge the Court has to consider the material with a view to find out if there is ground for presuming that the accused has committed the offence or that there is not sufficient ground for proceeding against him and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.”

8. Very recently in case of **Vinay Tyagi v. Irshad Ali alias Deepak and Ors.**², the Supreme Court while considering Section 227 of the Cr.P.C. held as under:-

1 (1997) SCC (Criminal) 584

2 2013 Cri.L.J. 754

“12. On analysis of the above discussion, it can safely be concluded that 'presuming' is an expression of relevancy and places some weightage on the consideration of the record before the Court. The prosecution's record, at this stage, has to be examined on the plea of demur. Presumption is of a very weak and mild nature. It would cover the cases where some lacuna has been left out and is capable of being supplied and proved during the course of the trial. For instance, it is not necessary that at that stage each ingredient of an offence should be linguistically reproduced in the report and backed with meticulous facts. Suffice would be substantial compliance to the requirements of the provisions.”

9. In case of **Amit Kapur v. Ramesh Chander and another**³, the Supreme Court while considering the scope of jurisdiction of this Court in revision against the order of charge held as under:-

“The above-stated principles clearly show that inherent as well as revisional jurisdiction should be exercised cautiously. If the jurisdiction under Section 482 of the Code in relation to quashing of an FIR is circumscribed by the factum and caution afore-noticed, in that event, the revisional jurisdiction, particularly while dealing with framing of a charge, has to be even more limited. Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is discharged under Section 227 of the Code. Under both these provisions, the court is required to consider the 'record of the case' and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the Section exists, then the Court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such jurisdiction. It

3 JT 2012 (9) SC 329

may even be weaker than a prima facie case.”

10. In the aforesaid decisions, their Lordships of the Supreme Court clearly held at the stage of framing of charge, the Court has to consider the material with a view to find out if there is ground for presuming that the accused had committed offence and not for the purpose of arriving at a conclusion that it is not likely to lead a conviction. The learned Additional Session Judge after considering the material on record clearly came to the conclusion that there is ground for presuming that applicant has committed offence under aforesaid Sections and framed charges for commission of aforesaid offences.

11. After hearing learned counsel appearing for the parties and taking into account the material brought by non-applicant to substantiate the allegations; considering the nature of injury; nature of evidence available against the applicant; the manner, in which, offence is said to have been committed particularly, throwing Acid upon the complainant and considering the scope of jurisdiction under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 as laid down by their Lordships of the Supreme Court in **State of Maharashtra, Vinay Tyagi and Amit Kapur** (supra), I do not consider it a fit case for interfering in the revision against order framing charge.

12. Consequently, criminal revision deserves to be and is accordingly dismissed at the admission stage without notice to other side.

Sd/-
(Sanjay K. Agrawal)
JUDGE

