

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 619 of 2015

1. Dilip Nayak S/o Guna Ram Ghasiya Aged About 32 years R/o Village Sulsuli, Police Station Trikunda, District Balrampur-Ramanujganj, Chhattisgarh
2. Smt. Saraswati W/o Dilip Nayak Aged About 30 Years R/o Village Sulsuli, Police Station Trikunda, District Balrampur-Ramanujganj, Chhattisgarh
3. Smt. Phulmati W/o Guna Ram Ghasiya Aged About 50 Years R/o Village Sulsuli, Police Station Trikunda, District Balrampur-Ramanujganj, Chhattisgarh

---- Applicant/s

Versus

State Of Chhattisgarh Through: The Station House Officer, Police Station Trikunda, District Balrampur-Ramanujganj, Chhattisgarh

---- Respondent

For Applicants	:	Shri V.K.Pandey, Advocate
For Respondent / State	:	Ms. Shubha Shrivastava, Panel Lawyer

Order On Board

28/07/2015

Heard.

The applicants are apprehending their arrest in connection with Crime No.24/15 registered at police station – Trikunda, District – Balrampur – Ramanujganj, CG for alleged commission of offence under Section 294, 323 & 307/34 of IPC read with Section 4 and 5 of the Chhattisgarh Tonhi Pratadna Adhiniyam, 2005.

2. Prosecution case is that the applicants, alleging witchcraft being played by one Sukhdev, assaulted Sukhdev and his son Jitendra with intention to cause death.

3. Learned counsel for the applicant submits that present is a case of false implication as a counter blast. It is submitted that complainant – Jitendra entered the house of Sarawati and outraged her modesty. On this, a report was lodged in the police station at 8:30 AM registered under Crime No.23/15. It is submitted that only to save them from this allegation, after two hours, report has been lodged by Jitendra. He submits that the nature of injury sustained by the complainants and the weapon alleged to be used do not make out any case of commission of offence under Section

307 of IPC. He submits that even if, it were to be assumed that due to outraging modesty, her husband may have assaulted complainant – Jitendra and resulted in further dispute with his father, the nature of injury do not make out a case of commission of offence under Section 307 of IPC.

4. On the other hand, learned State counsel submits that the allegation of applicants having assaulted Jitendra and Sukhdev and the manner in which they assaulted, a prima facie case of commission of offence under Section 307 of IPC is made out.

5. Considering the submission of learned counsel for the parties, particularly taking into consideration that prior to lodging of report by Jitendra in the present case, Saraswati has lodged report at 8:30 AM that her modesty was outraged by Jitendra when he entered her house and torn her clothes and taking into consideration that in similar offence of outraging modesty, earlier also a criminal case was registered against Jitendra in which he was in jail, the application is allowed.

6. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicants shall abide by all the following terms and conditions -

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police Officer.
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava
Judge