

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 979 of 2015**

1. Ganguram, S/o. Rewaram Sahu, Aged About 50 Years.
2. Lalit, S/o. Ganguram Sahu, Aged About 22 Years.
3. Renuka, D/o. Ganguram Sahu, Aged About 20 Years.
4. Smt. Sheetal Bai, W/o. Ganguram Sahu, Aged About 45 Years.

All are R/o. Village Sankri, Thana & Tahsil Gunderdehi, Civil & Revenue District Balod, Chhattisgarh.

---- Petitioners**Versus**

1. Khamhan Lal, S/o. Jagatram Sahu, Aged About 49 Years, R/o. Village Sankri, Thana & Tahsil Gunderdehi, Civil & Revenue District Balod, Chhattisgarh.
2. State Of Chhattisgarh, Through: District Magistrate Balod, District Balod, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Samir Singh, Advocate.
For Respondent/State	:	Mr. Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****03/11/2015**

1. The instant petition is against the order dated 24.09.2015 passed in Criminal Revision No.2200041/2015 by the First Additional Sessions Judge, Balod, whereby the order dated 22.07.2015 passed in Criminal Complaint Case No.110/2014 by the Judicial Magistrate First Class, Gunderdehi, was affirmed. The order pertains to dismissal of the application to discharge the applicants.
2. Learned counsel for the petitioners submits that as per the complaint no case is made out under Section 294, 506-B of IPC as the averments do not support the same.

3. Learned State counsel submits that the criminal case is arising out of the complaint filed by Khamhan Lal, the Respondent No.1, wherein the charges have been framed under Section 294, 506-B of IPC.
4. I have heard learned counsel for the parties, perused the pleadings and documents on record.
5. Reading of the order and the documents shows that the offence under Section 294, 506-B have been registered and charges have been framed. The copy of the complaint is enclosed wherein the averments of the complainant have been made. Perusal of the statement of Khamhan and Meena supports the case wherein they stated that abuse and threatening to life was given. Subsequently, the evidence before charge also affirms the fact that the ingredients have prima facie made out. The defence what is being raised by the petitioners at this stage cannot be appreciated as prima facie the statement would show the offence is made out.
6. The Supreme Court in the case law reported in ***AIR 2013 SC 52 (Shoraj Singh Ahlawat and Ors. Vs. State of U.P. and Anr.)*** has held that the Court trying the case can direct discharge only for reasons to be recorded by it and only if it considers the charge against the accused to be groundless. Section 240 of the Code provides for framing of a charge if, upon consideration of the police report and the documents sent therewith and making such examination, if any, of the accused as the Magistrate thinks necessary, the Magistrate is of the opinion that there is ground for presuming that the accused has committed an offence triable under Chapter XIX, which such Magistrate is competent to try and which can be adequately punished by him. The ambit of Section 239 Cr.P.C. and the approach to be adopted by the Court while exercising the powers vested in it under the said provision fell for consideration of this Court in *Onkar Nath Mishra and Ors. Vs. State (NCT of*

Delhi) and Anr. (2008) 2 SCC 561 : (AIR 2008 SC (Supp) 204 “ 2008 AIR SCW 96).

7. Therefore, considering the documents i.e. primary evidence and evidence before charge would show that *prima facie* case has been made out against the petitioners.
8. Therefore, in view of the forgoing discussion, I am not inclined to interfere with the order of framing of charge at this stage. Accordingly, the petition is dismissed. It is made clear that the Court has not expressed any opinion on merits about admissibility or to draw inference of any accusation and interpretation of statement or evidence.

Sd/-
(Goutam Bhaduri)
JUDGE