

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1011 of 2015

- Ram Dayal Chandrakar S/o Late Bhuwan Lal Chandrakar Aged About 65 Years R/o Motipara, Durg, P.S. / Tahsil / District Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Ranitarai, District Durg Chhattisgarh

---- Respondent

For Petitioner : Shri Somnath Verma, Advocate.
For Respondent/State : Shri A.K. Mishra, PL

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

30/11/2015

Challenge in the present revision is to the order dated 6.10.2015 passed by 5th Additional Sessions Judge, Durg rejecting the application filed by the applicant under Sections 227 and 228 of Cr.P.C.

02. Counsel for the applicant submits that even if it is accepted that the applicant was owner of the mine in question where the incident has taken place, he cannot be held liable for commission of any offence as neither he was present at the place of occurrence nor there is any evidence that he directed any of his employees to take work from the concerned labour. He submits that in absence of any cogent material in the charge sheet against the applicant, he cannot be prosecuted for the offences under Sections 3 & 5 of the Explosive Substances Act read with Section 34 of IPC.

03. Supporting the impugned order it has been argued by the State counsel that in the statements of the victim and other witnesses

recorded under Section 161 of Cr.P.C. it has come that it is the applicant who was owner of the said mine. He submits that whether the applicant was duly authorized to use the explosive substances in his mine, whether the explosive substances have been used in accordance with law by the applicant or not, whether the employee was engaged on the instructions of the applicant or not, all these issues can be decided after leading evidence and therefore, at this stage no interference can be made and the order of framing charge against the applicant cannot be faulted with.

04. From the evidence it has come that it is the applicant who was owner of the mine in question. There is no evidence otherwise on record to show innocence of the applicant. The court below after considering all the aspects of the case and the relevant law has framed charge against the applicant. Even the application filed by the applicant under Sections 227 and 228 of Cr.P.C. has been elaborately considered by the Court below while passing the impugned order. I find no reason to interfere with the order impugned. The revision has no substance, the same is liable to be dismissed and it is dismissed as such.

sd/

(Pritinker Diwaker)

Judge