

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Cr.M.P. No. 10 of 2016**

1. Pankaj Patel S/o Premlal Patel, aged about 19 years, R/o Village Saddu, District Raipur (C.G.)
2. Tikeshwar Yadav S/o Balla Yadav, aged about 18 years, R/o Village Saddu, District Raipur (C.G.)
3. Deendayal Dhiwar S/o Bishat Dhiwar, aged about 20 years, R/o Kachna Basti, Raipur, District Raipur (C.G.)
4. Dhanush Sahu S/o Late Badri Prasad Sahu, aged about 22 years, R/o Kachna Basti, Raipur, District Raipur (C.G.)
5. Anil Kumar Dhiwar S/o Kriparam Dhiwar, aged about 18 years, R/o Village - Saddu, District Raipur (C.G.)

**... Petitioners**

**Versus**

State of Chhattisgarh, through the Station House Officer, Police Station Vidhansabha, Raipur, District Raipur (C.G.)

**... Respondent**

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| For Petitioners      | : | Mr. C.R. Sahu, Advocate.               |
| For Respondent-State | : | Mr. Satish Gupta, Government Advocate. |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**08/01/2016**

1. The Petitioners through the present petition under Section 482 of Cr.P.C. have challenged the order dated 1.12.2015 passed by the 9th Additional Sessions Judge, Raipur, in Criminal Revision No. 315 of 2015 whereby the Revisional Court, i.e., the 9<sup>th</sup> Additional Sessions Judge, Raipur, has rejected the said revision preferred by the Petitioners against framing of charge under Sections 341, 294, 506B, 323, 147, 427 and 327 of I.P.C. by the Judicial Magistrate First Class, Raipur, in Criminal Case No. 1793 of 2014.

2. According to the Petitioners, a false complaint was lodged against the Petitioners on the basis of which the police registered an FIR and also after investigation has filed challan against the Petitioners. Subsequently,

the Judicial Magistrate First Class vide its order dated 10.8.2015 framed charge against the Petitioner for the offences under Sections 341, 294, 506B, 323, 147, 427 and 327 of I.P.C.

**3.** As per the Petitioners, the entire case is false and baseless and has no strength to stand and there is no evidence whatsoever, firstly for the police to have registered a case against the Petitioners, and secondly for the Judicial Magistrate First Class in framing of charge on 10.8.2015 also is bad in law for the reason that there is no evidence whatsoever prima facie for the Court below to reach to a conclusion that there are sufficient materials against the Petitioners on the basis of which the Court below has framed the charge. According to the Petitioners, before framing of charge the Court below must prima facie have sufficient materials on record to reach to a conclusion that prima facie there appears to be a strong suspicion against the Petitioners but in the instant case the said evidence is missing.

**4.** Against the order of the Judicial Magistrate First Class, dated 10.8.2015, whereby the charge was framed against the Petitioners, they had preferred a revision before the Sessions Court/Revisional Court. The Revisional Court vide impugned order dated 1.12.2015 has rejected the revision of the Petitioners on the ground that the Court below has rightly considered the materials placed before it while framing the charge. It also went to the extent of holding that when the Court below has held that prima facie the charge is made out that is all what is required and that any challenge to the same holding it to be bad in law, contrary to evidence and also the same being perverse, can only be considered after the evidence is recorded. The Revisional Court also held that the contentions of the Petitioners would be acceptable only after the evidences are considered and that at the time of framing of charge all that the Court below has to

see is whether in the given facts and circumstances any prima facie case is made out or not, to which the Court below has reached to the conclusion that from the perusal of the statements recorded during the investigation itself there is prima facie material and suspicion created against the Petitioners.

5. The law so far as the scope of interference by the High Court in exercising its powers under Section 482 is concerned is by now well settled and one of the recent judgements reported in 2012 (9) SCC 460 (Amit Kapoor v. Ramesh Chander & Another) has very clearly stated that for the purpose of framing of charge the Court below may not conduct a roving inquiry to reach to a conclusion whether the charge made out or not. Rather, the Court below has only prima facie reach to an opinion that there is sufficient material against the applicants of being accused in the commission of the alleged offences. In the said judgement it was also held that the High Courts should not unduly interfere in matters relating to the challenge of framing of charge and it should not meticulously examine the evidence to consider whether from the given evidence the accused would be convicted or not. Even if there is sufficient suspicion against the accused persons even then the framing of charge for the alleged offences should not be interfered with. The final test of guilt would not have to be applied at the time of framing of charge where it is only to see that whether in the given facts and circumstances prima facie the case is made out against the accused or not. In the instant case, the perusal of the two orders itself it shows that there was sufficient material for the Courts below to suspect the involvement of the Petitioners in the commission of the offences.

6. In the given facts and circumstances of the case, no illegality or infirmity appears to have been committed by the Courts below, firstly while framing of the charge and secondly in rejecting the revision against the framing of charge.

7. For the foregoing reasons, this Court does not find any sufficient material for exercising the extraordinary powers conferred upon this Court under Section 482 of Cr.P.C.

8. Accordingly, the Criminal Miscellaneous Petition being devoid of merits is dismissed.

Sd/-  
**(P. Sam Koshy)**  
Judge