

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P. No. 72 of 2016**

1. Ramlal S/o Jhaduram Gond, aged about 46 years, R/o Village Tanduldih, Tahsil Jayjampur, Police Station Baradwar, District Janjgir Champa, Chhattisgarh.
2. Shyamlal S/o Jhaduram Gond, aged about 48 years, R/o Village Tanduldih, Tahsil Jayjampur, Police Station Baradwar, District Janjgir Champa Chhattisgarh.

---- Petitioners**Versus**

1. State of Chhattisgarh through Station House Officer, Police Station Baradwar, District Janjgir Champa, Chhattisgarh.
2. Karan Kumar @ Saetram S/o Gandhiram Kurre, aged about 24 years, R/o Raipura, Bhatapara, Police Station Baradwar, District Janjgir Champa, Chhattisgarh.
3. Chaytram S/o Santuram Satnami, aged about 33 years, R/o Raipura, Bhatapara, Police Station Baradwar, District Janjgir Champa Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Yogesh Kumar Chandra, Advocate
For Respondent No.1	:	Smt. M. Asha, P.L.
For Respondents 2 & 3	:	Shri Yogeshwar Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25.04.2016**

By way of the instant petition under Section 482 of Cr.P.C., the petitioners have sought for quashing of the FIR dated 04.03.2015 registered as Crime No.62/2015 at Police Station, Baradwar, District Janjgir-Champa and the criminal proceeding pending against the petitioners before the First Additional Sessions Judge, Sakti, District Janjgir-Champa in Sessions Trial No. 117/2015.

2. Counsel for the petitioners submits that the petitioners have been falsely implicated in the instant case for commission of the offence punishable under Sections 294, 506B, 427, 307, 34 of IPC. He submits that a plain reading of the entire case diary and also the charge-sheet it does not reflect that the petitioners had played any direct or indirect role in commission of the alleged offence of assaulting the injured. He submits that there is no material whatsoever against the petitioners and therefore they should not be forced to face the trial for no fault of their part. Hence, the FIR deserves to be quashed. He further submits that they have been falsely implicated in the case. According to the petitioner, in fact, it is a case where the injured received injuries from an accident that took place while he was riding a motorcycle.

3. However, counsel for the respondents opposing the instant petition submit that as per the prosecution case, while the injured was being taken, on the way, he told the complainant that the petitioners had assaulted him with the blunt side of an axe. Thus, prima facie, there is some material against the petitioner in commission of the said offence.

4. Having considered the rival contentions put forth by either side, it is trite to refer to a decision recently decided i.e. **Shoraj Singh Ahlawat and Ors. Vs. State of U.P and Anr.** reported in **AIR 2013 SC 52** wherein Hon'ble the Supreme Court has categorically held that the Magistrate, on the basis of the material available on record, only has to see whether there is a prima facie ground to presume that the accused has committed an offence.

The Supreme Court has further held that at the stage of framing of charge, the Court is only required to evaluate the material documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the Court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.

5. Similarly, in the case of **Amit Kapoor Vs. Ramesh Chander and Another** reported in **(2012) 9 SCC 460** also the Hon'ble Supreme Court has, in very categorical terms held in para-19 that "At the initial stage of framing of charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage." In the same judgment, the Court has clearly stated that the revisional jurisdiction should be exercised cautiously and that the scope of interference exercising the revisional jurisdiction

particularly while dealing with the framing of a charge has to be very limited.

6. Considering the total facts and circumstances of the case, this Court is of the view that prima facie, there is some material available in the documents that are placed before the Court below particularly the statement of the injured witness which gives sufficient indication of an offence having committed and the said statement of the injured witness cannot be brushed aside by the High Court exercising the powers under Section 482 Cr.P.C. wherein quashment has been sought. Since there is prima facie material available, the action on the part of the Police in filing of the charge-sheet for the offence punishable u/s 294, 506B, 427, 307, 34 of IPC and the subsequent framing of charge by the Court below cannot be said to be bad in law, illegal or an error apparent on the face of the record and the fact whether these allegations or charges are correct or not can only be decided during the course of trial.

7. For the foregoing reasons, no such strong case has been made out by the counsel for the petitioner so as to invoke the jurisdiction of this Court in a petition u/s 482 of Cr.P.C. at this stage for quashing the FIR, filing of the Charge-sheet and initiation of the criminal proceedings.

8. Thus, the Cr.M.P. being devoid of merit, the same is accordingly dismissed.

Sd/-

P. Sam Koshy
Judge