

HIGH COURT OF CHHATTISGARH, BILASPUR
CRIMINAL REVISION NO. 82 OF 2016

Ashish @ Asu Agrawal son of Ramesh Agrawal, aged about 19 years, R/o Raigarh Road, Patthalgaon, PS Patthalgaon, District Jashpur (CG).

---- Applicant

VERSUS

State of Chhattisgarh through Station House Officer, Police Station Kamleshwarpur, District Surguja (CG).

---- Respondent

For Applicant
For Respondent/State

Ms. Hamida Siddique, Advocate.
Shri UKS Chandel, Panel Lawyer.

Hon'ble Shri Justice P.Sam Koshy

Order On Board

21/06/2016

1. By way of this criminal revision, the applicant seeks quashment of charge under Sections 395,397,398 and 120-B IPC framed against him by the Special Judge (Atrocities), Surguja, Ambikapur, in Sessions Trial No.74/2015.
2. As per the prosecution story, on 17.03.2015 a dacoity took place at Central Bank of India, Branch Narmadapur, District Surguja. FIR was lodged by the Branch Manager of the said Bank in this regard on the same day on 17.03.2015 itself alleging dacoity to have been committed by five unknown persons. Later on, in the course of investigation, nine persons were made accused in the said case including the present applicant. Charge sheet was also filed and the matter was registered as Sessions Trial No.74 of 2015. That, vide impugned order dated 15.12.2015, the court below has framed charge for the offence under Sections 395,397,398 and 120-B IPC

against the applicant.

3. Learned counsel for the applicant submits that even if the entire case is taken into consideration, what would reflect is, there is no iota of evidence against the applicant whatsoever in the commission of offence that took place on 17.03.2015 at the Central Bank of India, Branch at Narmadapur. According to him, the only allegation if at all if the charge is taken into consideration as it is, would be a case where the present petitioner, who is basically a mobile shop owner, has sold one SIM Card No.07067465731 to one of the accused person namely Anjil Dadsena. Apart from selling of said SIM Card, there is no other allegation or evidence against the applicant for commission of offence on 17.03.2015. It is further alleged that even if the sale of SIM is concerned, the statement is of the applicant himself and not on the basis of any other evidence which the prosecution could get during the course of investigation. It is further submitted on behalf of the applicant that the applicant has been falsely implicated in the case for the offence which he has not committed, and therefore, the order dated 15.12.2015 deserves to be set aside and the charge framed against him may be quashed.
4. Learned counsel appearing for the State, on perusal of record, opposes the petition, however, on query being put as to what is the specific allegation against the petitioner, the State counsel was finding it difficult to show from the case diary as to the overt-act committed by the applicant in the commission of the said dacoity that took place on 17.03.2015.
5. From the record nothing reflected with regard to any role played by the applicant in the alleged offence or is the conspiracy for committing the said offence so as to bring the applicant within the ambit of Section 120-B IPC.

6. In the absence of any prima facie material against the applicant except for selling one SIM card being mobile shop owner to one of the accused person that too an allegation without any proper documentation, this court is of the opinion that the charge levelled against the applicant does not seem to have on the basis of material available on record and it appears that the court below has framed the charge without proper application of mind and also without properly appreciating the materials against each of the accused persons in the said case.
7. The present is a fit case which would fall in the guidelines laid down in the celebrated case of State of Haryana and Others Vs. Bhajan Lal and Others¹ and also in all the subsequent judgments passed pertaining to the circumstances under which a charge framed can be quashed at the initial stage.
8. Recently, in case of N. Soundaram Vs. P.K. Pounraj and Another², the Supreme Court had discussed the issue of quashment of criminal proceedings at threshold in exercise of powers under Section 482 Cr.P.C. In the said judgment, in paragraph 13, it was held as under:

“It is well settled by this Court in catena of cases that the power under section 482 Cr.P.C. has to be, exercised sparingly and cautiously to prevent the abuse of process of any Court and to secure the ends of justice [See State of Haryana Vs. Bhajanlal, 1992(1) SCC (Supp.). The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should refrain from giving a prima-facie decision unless there are compelling circumstances to do so. Taking the allegations and the complaint as they were, without adding or subtracting anything, if no offence was made out, only then the High Court

1 1992 Supp.(1)SCC 335

2 2014 (10) SCC 616

would be justified in quashing the proceedings in the exercise of its power under section 482, Cr.P.C.”

9. Emphasis being led on the underlined portion and applying the said ratio of law laid down by the Supreme Court to the facts of the present case in its entirety without adding or subtracting anything even then, there is no iota of evidence which can even remotely connect the applicant with the offence that is held against him that of offence under Sections 395,397,398 and 120-B IPC.
10. Thus, in the light of the guidelines framed by the Supreme Court in cases of Bhajan Lal (Supra) and N.Soundaram (Supra), if the facts of the present case is taken into consideration, this court could not find any prima-facie material by which even suspicion could be drawn against the applicant for having committed the offence of dacoity and under the said circumstances it would not be proper, just and legal to ask the petitioner to undergo the entire process of trial. Thus, the present revision petition deserves to be allowed and the charge framed against the applicant also needs to be quashed.
11. For the foregoing reasons, the revision is allowed. The impugned order dated 15.12.2015 passed by the Special Judge (Atrocities), Surguja, Ambikapur, in Sessions Trial No.74/2015 is set aside. The charge framed under Sections 395,397,398 and 120-B IPC against the applicant is quashed and he is discharged from the criminal case.

Sd/-
(P.Sam Koshy)
JUDGE