

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 289 of 2016**

Smt. Prabha Sahu W/o Shree Gajpal Sahu Aged About 19 Years R/o Village Matia, Chouki-Giroudhpuri And P.S. Gidhour, Distt. Baloda Bazar - Bhatapara Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through In Charge, Police Station Gidhour, District Baloda Bazar-Bhatapara Chhattisgarh.

-----Respondents

For Applicant:	Shri Ashok Kumar Swarnakar, Advocate.
For Respondent/State:	Smt. Madhu Nisha Singh, Panel Lawyer.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

11.5.2016

1. The challenge to the present Revision is the framing of charge dated 8.3.2016 whereby the charges under Sections 376(1)/109 IPC and Section 4/18 of POSCO Act have been framed against the present Applicant.

2. Learned Counsel for the Applicant submits that it is a case where the Applicant has been falsely implicated and that there was no allegation against her at the initial stage while lodging of the First Information Report, as well as the written complaint as also when the statement under Section 161 Cr.P.C was being recorded. Therefore, prima facie, no case is made out against the present Applicant and the charge framed against her is uncalled for and deserves to be quashed.

3. Learned State Counsel opposing the Revision submits that

subsequently there was a statement under Section 164 Cr.P.C of the prosecutrix recorded before the Magistrate wherein she has specifically made certain allegations against the present Applicant and that was a reason the charge under Sections 376(1)/109 IPC and Section 4/18 of POSCO Act have been framed against the present Applicant.

4. So far as the exercise of revisional power under Section 482 Cr.P.C is concerned, the law in this regard is well settled in a catena of decisions by the Supreme Court. The Court below at the time of framing of charge prima facie acts on suspicion in accordance with the complaint that the accused might have committed the offence and that Court below would not go into the thorough investigation so as to reach the conclusion whether the charge is made out or not.

5. The Hon'ble Supreme Court, in (2012) 9 SCC 460 (Amit Kapoor vs. Ramesh Chander and Another) has very clearly laid down the principle that inherent as well as revisional jurisdiction should be exercised cautiously. If the jurisdiction under Section 482 Cr.P.C in relation to quashing of an First Information Report is circumscribed by the factum and caution afore noticed, in that event, the revisional jurisdiction, particularly while dealing with framing of a charge, has to be even more limited. At the initial stage of framing of a charge, the Court is concerned not with the proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that Court has to see is that with 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.

6. In view of above, since there are certain specific allegations against the Petitioner in the statement under Section recorded under Section 164 of Cr.P.C, it cannot be said to be a case of no evidence. Thus, no case is made out for interference. The instant Criminal Revision is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

Priya