

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION NO. 572 OF 2016

Tapas Bose @ Balai Bose, aged about 35 years, S/o Tarapad Bose, R/o Purana Bazar, Ward No. 2, Tahsil and Thana Pakhanjore, District Uttar Bastar Kanker (C.G.)

... Applicant

Versus

The State of Chhattisgarh, through Police Station Pakhanjore, District Uttar Bastar Kanker (C.G.)

... Non-applicant

For Applicant	:	Mr. Parag Kotecha, Advocate.
For Non-applicant/State	:	Mr. Vaibhav Goverdhan, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/07/2016

1. The present Criminal Revision has been preferred by the Applicant against the framing of charge dated 27.4.2016 passed by the Additional Sessions Judge/Special Additional Sessions Judge for Trial of the Protection of Children from Sexual Offences, Bhanupratappur, Kanker in Special Sessions Case No. 23 of 2016.
2. Vide impugned order dated 27.4.2016, the Court below has framed charges against the Applicant for the offences punishable under Sections 363, 354(B) of IPC as well as under Sections 7 & 8 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'the Pocso Act').
3. Learned Counsel for the Applicant submits that the revision petition has been preferred questioning framing of charges under Sections 7 & 8 of the Pocso Act as also under Section 354(B) of IPC.

4. Learned Counsel for the Applicant drew the attention of the Court to the statement of the prosecutrix recorded under Section 164 of CrPC and submitted that from a plain reading of the statement of the prosecutrix, no case under Sections 7 & 8 of the Pocso Act is made out nor does it discloses commission of offence under Section 354(B) of IPC and therefore framing of charges under these provisions is bad in law.

5. Learned Counsel for the State however opposes the revision and draws the attention of the Court to the age of the Applicant who is aged about 35 years and then refers to the age of the prosecutrix who is aged about 13 years and also takes the Court through the statement of the prosecutrix recorded under Section 164 of CrPC wherein it has been clearly reflected by the prosecutrix that the Applicant on the date of incident had caught hold of her hands and made her sit on the motorcycle and took her to some remote area. It is also reflected that en route the prosecutrix had jumped from the motorcycle to save herself and again the Applicant is said to have made her sit on the motorcycle and half way the Applicant dropped her. Thus, a prima facie case under Sections 7 & 8 of the Pocso Act has been made out while framing of charges against the Applicant, and prayed for dismissal of the present revision petition.

6. Having considered the total facts and circumstances of the case more particularly having perused the statement of the prosecutrix, this Court is of the opinion that prima facie the Court below was right while framing of charges under Sections 7 & 8 of the Pocso Act as well as under Section 354(B) of IPC, as is evidence from the plain reading of the statement of the prosecutrix.

7. So far as the interference by the High Court invoking the provisions under revisional jurisdiction is concerned, the law in this regard is well settled by the Supreme Court in the matter of **Amit Kapoor Vs. Ramesh**

Chander and Another reported in 2012 (9) SCC 460. The Supreme Court has very clearly laid down the principle that inherent as well as revisional jurisdiction should be exercised cautiously. If the jurisdiction under the Code in relation to quashing of an FIR 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 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 be applied at that stage.

8. In the instant case, the impugned order passed by the Court below clearly reflects that prima facie the Court has found sufficient material for framing the said charges against the Applicant.

9. Relying upon the judgment in the case of Amit Kapoor (supra) when prima facie a case is made out by the prosecution, this Court should not interfere with the same at the stage of framing of charge.

10. Consequently, the Criminal Revision being devoid of merits, the same is dismissed.

Sd/-
(P. Sam Koshy)
Judge