

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.1191 of 2016**

- Sushil Kumar Sharma S/o Manharan Prasad Sharma Aged About 33 Years R/o Radhikanagar, Bhilai, Tahsil & District- Durg, Chhattisgarh.

---- Petitioner**Versus**

1. Seshnarayan Sharma S/o Shivnarayan Aged About 41 Years R/o Sector-1, Road No. 30, Quarter No. 30, Police Station- Bhilai Bhatti, District- Durg, Chhattisgarh.
2. Smt. Jyoti Sharma W/o Shivnarayan Sharma Aged About 35 Years R/o Sector-1, Road No. 30, Quarter No. 30, Police Station- Bhilai Bhatti, District- Durg, Chhattisgarh.
3. State Of Chhattisgarh Through District Magistrate- Durg, District Durg, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Jitendra Gupta, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.GA

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****10/11/2016**

Heard.

2. This petition under Section 482 of Cr.P.C. has been filed by the petitioner challenging the order dated 30-07-2016 passed by the 2nd Additional Sessions Judge, Durg, by which, the petitioner's revision has been dismissed as barred by limitation.

3. Learned counsel for petitioner submits that on the basis of the material contained in the charge sheet, weapon used and the nature of injury as also the vital parts of body, on which, injury was inflicted, the appellate Court ought to

have also framed charges under Section 307 IPC.

The petitioner is the victim and when the petitioner, later on, realized that proper charges have not been framed, revision was filed before the Additional Sessions Judge, which has been dismissed as barred by limitation ignoring that from the material available on record, prima facie, a case of commission of offence under Section 307 IPC as also under Section 25 & 27 of Arms Act is made out.

4. In the present case, charges were framed on 18-02-2011. Thereafter, the trial has proceeded substantially and even the evidence of the petitioner was also recorded on 24-12-2012. At this distance of time, after about five years, the petitioner moved an application before the trial Court for framing of additional charge under Section 307 of IPC against the accused persons.

5. The application for condonation of delay of 1155 days placed on record does not come out with any satisfactory explanation for condonation of delay. It cannot be ignored that the present is a case, where the respondents are facing trial since 2011, after framing of charge on 18-02-2011 and the petitioner was also examined in the year 2012 itself. Merely by saying that the petitioner was not aware of framing of charges due to various reasons, would not suffice. The accused cannot be put under trial for indefinite period. The petitioner, if aggrieved by the order of framing of charge, ought to be vigilant and file an application in time.

6. At this stage, it would be result in grave prejudice and hardship to the accused, if the petitioner's application is allowed for framing of additional charge, subject them to virtually retrial on the newly framed charges.

7. Therefore, in the conspectus of aforesaid considerations, this Court is of

the view that the Additional Sessions Judge has committed no illegality in rejecting petitioner's application as barred by limitation by not accepting the cause shown for delay of 1155 days in filing the revision petition.

8. In the result, the petition is dismissed.

SD/-
(Manindra Mohan Shrivastava)
Judge