

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 812 of 2016

1. Bharat Lal Yadav, S/o Shri Shyam Lal Yadav, Aged About 27 Years,
2. Ram Singh Sidar, S/o Late Shri Sudarshan Sidar, Aged About 23 Years,
3. Ganesh Das Mahant, S/o Shri Shankar Das Mahant, Aged About 28 Years,
4. Ram Singh Sidar, S/o Late Shri Ranjeet Singh Sidar, Aged About 20 Years,

All R/o Village Jetha, Post - Lavsara, Police Station Baradwar, Tehsil Sakti, Civil and Revenue District Janjgir Champa (C.G.)

---- Petitioners

Versus

- State of Chhattisgarh Through Officer-In-Charge, Police Station Baradwar, Civil and Revenue Distt. Janjgir Champa (C.G.)

---- Respondent

For Petitioners :	Shri Ramesh Nayak, Advocate
For Respondent/State :	Shri O.P. Sahu, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

02/08/2016

1. The petitioners through the present petition has assailed the framing of charge by the Court below on 18/12/2015 passed in Criminal Case No. 1047/2015 by the Judicial Magistrate First Class, Sakti, District Janjgir-Champa (C.G.). The said order was also affirmed by the revisional Court of First Additional Sessions Judge, Sakti, District Janjgir-Champa (C.G.) in Criminal Revision No. 14/2016, while framing of charge offence punishable under Section 394, 34 of IPC.

2. Counsel for the petitioner submits that the entire case of the prosecution is fabricated and concocted inasmuch as the FIR and the complaint shows that the accused persons were not known by the complainant Bhimram. According to the petition, the present petitioners were employees under the complainant Bhimram, who was contractor and their record shows that they have received salary from the complainant and if the petitioners were the person who had looted the complainant, he would have definitely known them as they were employee under him, it falsifies the case of the prosecution. He further submits that counter complaint lodged by the present petitioners before the Labour Officer, Janjgir demanding for wages for the period they have worked under the complainant and wherein the notice have also been issued to the said complainant Bhimram. Therefore to counter that, the complainant has now implicated the petitioners and therefore, prays for quashing of the order/charge.
3. Counsel for the State has opposes the contention raised by the counsel for the petitioners and submits that there are sufficient material at this stage for the Court below to frame the charges.
4. Counsel for the State submits that there has been recovery of motorcycle and identity card belonging to the complainant from the possession of one of the petitioner and from the other petitioners amount looted and which was distributed among them were recovered and therefore it cannot be said that there is no evidence against the present petitioners for the purpose of framing of charge.
5. Having heard counsel for the parties and taking into consideration the facts and circumstances of the case particularly the statement of the

complainant and also taking note of the recovery and seizure made from the petitioners, this Court is of the opinion it is not a case of no evidence against the petitioners but *prima facie* there appears to be some strong proof against the petitioners which has led to the framing of charge by the Court below so far as an offence under Section 392, 34 of the I.P.C. against the present petitioners.

6. So far as the interference by the High Court invoking the provision under revisional jurisdiction is concerned, the law in this regard is well settled by the Hon'ble Supreme Court in the matter of ***Amit Kapoor Vs. Ramesh Chander and Anr*** 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 to be applied at that stage.
7. In the instant case, the order passed by the Court below clearly reflects that *prima facie* the Court has found sufficient material for framing charges against the present petitioners.
8. Relying upon the judgment in case of *Amit Kapoor (Supra)* when *prima*

facia case is made out by the Prosecution, this Court should not interfere with the same at the stage of framing of charge.

9. In view of the above, this Court is of the opinion that petition being devoid of merits is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge

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