

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 1099 of 2015**

State Of Chhattisgarh Through The Police Station Pulgaon, Durg,
District Durg, Chhattisgarh.

---- Petitioner**Versus**

Pardeshi Sahu S/o Ram Kishun Sahu Aged About 29 Years R/o
Borai, P.S. Pulgaon, District Durg, Chhattisgarh.

---- Respondent

For the Applicant/ State :	Shri S.C. Khakhariya, Deputy Advocate General and Ms. Asha, Panel Lawyer.
For the Respondent :	Shri Jitendra Gupta, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order on Board****03/05/2016**

(1) Heard on I.A. No. 1 of 2015, an application for condonation of delay as the instant criminal revision has been preferred after 31 days of its limitation.

(2) For the reasons mentioned in I.A. No. 1 of 2015, the same is allowed and the delay in filing the instant criminal revision is hereby condoned.

(3) With the consent of both the parties, the matter is heard finally at the motion stage itself.

(4) Facts in brief required for adjudication of the instant criminal revision are that the Judicial Magistrate, First Class, Durg, Chhattisgarh committed Criminal Case No. 3388 of 2014 (State of Chhattisgarh versus Pardeshi Sahu) wherein the charge-sheet has been filed under Sections 450, 376 and 506 Part II of the Indian Penal Code (for short 'the IPC')

and Section 3(1)(xii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Act of 1989') and the matter was placed before the Special Judge under the Act of 1989. The said Special Judge registered the matter as Special Case No. 8 of 2015.

(5) After hearing both the parties, the Special Judge passed an order under relevant provisions of Section 227 of the Code of Criminal Procedure, 1973 (for short 'the Code') dated 11.8.2015, discharged the Respondent of the offence under Section 3(1)(xii) of the Act of 1989 and held that as the other penal Sections i.e. Sections 450, 376, 506 Part II of the IPC are triable by the Sessions Court, hence, the matter be transmitted for further proceeding to the Sessions Judge, Durg, Chhattisgarh.

(6) Against the said order of discharge, the Applicant/ State filed the instant criminal revision wherein it is submitted that *prima facie*, evidence is available against the Respondent under Sections 450, 376, 506 Part II of the IPC as also for the offence under Section 3(1)(xii) of the Act of 1989. The matter cannot be appreciated merely on the basis of the contents in the First Information Report (for short 'the FIR'). The Court below was required to appreciate the entire evidence collected by the prosecution and as the provisions of Section 3(1)(xii) of the Act of 1989 are attracted, the order of discharge for the aforesaid sections by the Court below may be set aside and the Court below may also be directed to proceed for trial against the accused/Respondent for the charge under Section 3(1)(xii) of the Act of 1989 in addition to the other charges relating to the IPC.

(7) Learned counsel for the Respondent opposed the matter orally.

(8) Heard learned counsel for the parties and perused the material available.

(9) Learned counsel for the Applicant supported the grounds taken in the instant criminal revision and submitted that as *prima facie* material is available against the Respondent for the offence under Section 3(1)(xii) of the Act of 1989, the order passed by the Court below is bad in law and therefore the same may be quashed.

(10) Per contra, learned counsel for the Respondent, opposing the submissions made on behalf of the Applicant, submitted that the Court below, after perusal of the entire charge-sheet, held that there is no any material collected also for the charges under Section 3(1)(xii) of the Act of 1989 and hence the order passed by the Court below does not require any interference and as such the instant revision may be dismissed.

(11) On perusal of copy of the charge-sheet, it appears that the prosecutrix (name not mentioned) had lodged an FIR against the Respondent at Police Station Pulgaon after one year of the incident. The police has registered Crime No. 274 of 2013 under Sections 450 and 376 of the IPC only. In the entire FIR, there is no allegation regarding any facts attracted for the commission of any offence under Section 3(1)(xii) of the Act of 1989 and also from the statement of the prosecutrix recorded under Section 161 of the Code dated 1.5.2013, it reveals that again she had not levelled any allegation under Section 3(1)(xii) of the Act of 1989. The Court below after appreciating the entire facts held that there is no any incriminating fact in the FIR and also in the police statement given by the prosecutrix for the offence regarding Section 3(1)(xii) of the Act of 1989. With this, the trial Court discharged the

Respondent of the offence under Section 3(1)(xii) of the Act of 1989 and transmitted the matter to the Sessions Judge, Durg for further proceeding.

(12) After perusal of the impugned order dated 11.8.2015 and the material shown, I do not see any illegality, impropriety and incorrectness in the order passed by the Court below for the discharge of the Respondent for offence under Section 3(1)(xii) of the Act of 1989.

(13) As the Applicant has failed to demonstrate any illegality or impropriety or incorrectness in the impugned order, the instant criminal revision fails and the order passed by the Court below does not require any interference.

(14) Consequently, the instant criminal revision is dismissed as not maintainable.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE