

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 828 of 2016**

- Farzan Khan S/o Zakirurrahman Khan Aged About 28 Years R/o Vallabh Nagar, Thana - New Rajendra Nagar, Distt. - Raipur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station Sarsvati Nagar Raipur Chhattisgarh

---- Non-applicant

For Applicant : Mr. Vikram Singh, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****05/09/2016**

1. The present Criminal Revision has been filed questioning the order of framing of charge dated 13.07.2016 passed by the 7th Upper Sessions Judge (FTC) Raipur, District – Raipur in Special Criminal Case No. 159/2015.
2. Learned Counsel for the Applicant submits that so far as the impugned order is concerned the Applicant intends to challenge only the charge under the provisions of the Information Technology Act. He subsequently submits that so far as the other charges are concerned he is not assailing the same at this juncture.
3. So far as the framing of charge under the provision of the Information Technology Act is concerned learned Counsel for the Applicant

submits that there is not enough proof available to establish the offence against the Applicant. The prosecution has not been able to collect sufficient material by which it could be said that it was the present Applicant who has hacked the e-mail ID of the complainant and was sending abusive and indecent materials. According to him if it was used by the Applicant it should have been easily traced out by cyber cell technical expert using the unique identification number in support of evidence for framing of charge under the provisions of the Information Technology Act, therefore the framing of charge under the Information Technology Act is not proper and deserves to be set aside.

4. Learned State Counsel however opposes the Petition on the ground that there is prima facie material available against the present Petitioner, therefore, the Court below is justified in framing charge against the Applicant for the offences including under that of the Information Technology Act. The State Counsel further submits that the first allegation against the present Applicant itself is that the Applicant has hacked the e-mail ID of the complainant and her sister and was posting indecent and vulgar materials on it. This itself is sufficient ground for the Court below to frame charges under the provisions of the Information Technology Act against the Applicant. He further submits that the allegation further is that the Applicant has been deliberately doing it for past many days and also posting and circulating the same to even the family members and the friends circle of the complainant.

5. It was also the specific complaint of the complainant that the Applicant was also sending indecent materials by way of SMS from the mobile numbers belonging to the Applicant and she has provided his specific mobile numbers also.
6. Having considered the rival contentions put forth on either side and taking into consideration the specific allegations levelled against the Applicant particularly that of sending indecent materials by way of messages made from the mobile as well as the complaints of hacking e-mail ID and sending indecent materials by way of email prima facie material is made out against the Applicant. So far as the contentions put forth by the Counsel for the Applicant is concerned they are his defence for which he shall be getting sufficient opportunity to cross examine witnesses to be produced on behalf of the prosecution by which he would establish his case to be disapproved.
7. This Court in exercise of its discretionary jurisdiction under Section 397 CrPC would not go into the facts of the framing of charge which has to be adjudicated upon only after the evidence is completed.
8. Accordingly, the present Criminal Revision being devoid of merits, the same is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE