

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 162 of 2017

- Tribhuwan Tiwari S/o Late R.N. Tiwari, Aged About 63 Years, R/o Sector 02, Quarter No. 9/ B, Bhilai, Police Station Bhilai Nagar, Sector 06, District Durg, Chhattisgarh.

---- Petitioner

Versus

- State of Chhattisgarh Through Police Station Supela, District Durg, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri H.S. Ahluwalia, Advocate
For Respondent/State	:	Shri B. Gopkumar, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/02/2017

1. Heard.
2. This petition has been filed by the petitioner, aggrieved by order dated 12/01/2017 passed by the VI Additional Sessions Judge, Durg, by which the petitioner's application for taking cognizance of commission of offence under Section 306 of IPC against the proposed accused by way of application under Section 319 of Cr.P.C. has been rejected. Learned counsel for the petitioner argued that during the course of trial, prosecution witnesses PW-1 Tribhuwan Tiwari, PW-5 Mintu @ Mithlesh Tiwari, PW-6 Omprakash Tiwari, PW-7 Lalita Tiwari, PW-8 Pooja and PW-9 Kamlesh Tiwari have deposed in their evidence that in dispute and quarrel with deceased Akhilesh Tiwari not only the present applicant was involved but Deepak Mishra and all the family members including proposed accused were also involved. The Court below was obliged to take cognizance against other persons in the alleged commission of offence, in the spirit provision under Section 319 of the

CrPC.

3. The evidence of the witnesses has been placed on record. In the considered opinion, it does not make out it's a prima facie case. The evidence prima facie only shows that the dispute was between Akhilesh Tiwari and Deepak Mishra on account of the vehicle of Deepak Mishra having been allegedly damaged by Akhilesh Tiwari. Though in the evidence, allegations are made against all the members of the family of Deepak Mishra, those allegations are vague and general in nature. Therefore, it cannot be said that prima facie case is made out against the proposed accused for taking cognizance against them on alleged offence under Section 306 of IPC that they abetted under Section 107 of the IPC.
4. I do not find any illegality committed by the Court below. Accordingly, this petition is dismissed.

Sd/-

(Manindra Mohan Shrivastava)

Judge