

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.397 of 2017

- Pankaj Sahu S/o Foolchand Sahu, Aged About 31 Years R/o Village Subhashnagar, Police Station Mahasamund, District Mahasamund, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Mahasamund, District Mahasamund, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Pawan Kesharwani, Advocate
For Respondent/State	:	Shri Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

28/03/2017

Heard on admission.

2. This petition under Section 482 of Cr.P.C. is directed against order dated 19-10-2016 passed by the Additional Sessions Judge, Mahasamund in Criminal Revision No.H-51/2014, affirming the order dated 14-03-2014 passed by the Judicial Magistrate First Class, Mahasamund in Criminal Case No.1641/2012, rejecting the petitioner's application under Section 239 Cr.P.C. for discharge.

3. Learned counsel for the petitioner argued that the petitioner submitted very authentic document relating to medical examination of the petitioner in the hospital, which shows that the presence of the petitioner at the time of alleged incident was wholly improbable. He submits that these documents are authentic in nature and the conclusive proof of his plea of *alibi*, the Court below ought to have discharged the petitioner under Section 239 Cr.P.C. without subjecting him to further agony of facing criminal trial.

4. The prayer before the Court to discharge the accused, who is facing trial, is contemplated under Section 239 of Cr.P.C. to find out whether charge against the accused are groundless. The Court is required to examine all the probabilities put forth by the petitioner for discharge. The petitioner's plea for discharge is based on the plea of *alibi*. The report of the hospital and other report of the Police Officer, are not conclusive proof to establish the plea of *alibi*, but it was required to be proved in a proper manner consistent with the provisions of Indian Evidence Act before proving the plea of *alibi*. Therefore, I do not find that the Court below has committed any illegality in rejecting the application for discharge moved by the present petitioner nor it would be abuse of the process of law. In the present case, no interference is called for by this Court in exercise of power under Section 482 of Cr.P.C.

5. In the result, the petition is dismissed. It is made clear that this Court has not commented upon the merits of the plea of defence raised by the petitioner in order to challenge the order of discharge. Learned trial Court shall decide the matter without being influenced by any observations made by this Court as observations are limited only to examine whether a case for interference under Section 482 of Cr.P.C. is made out or not.

SD/-
(**Manindra Mohan Shrivastava**)
Judge