

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 745 of 2015

Sumeet Kumar Sinha, S/o. Madhusudan Sinha, Aged About 41 Years, Senior Divisional Material Manager, Office Of The Divisional Railway Manager, South East Central Railway, Bilaspur, Police Station Torwa, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police Station Torwa, Bilaspur, Distt. Bilaspur, Chhattisgarh.
2. Parag Budhiya, S/o. Sanjay Budhiya, Aged About 25 Years, R/o. Tiwari Chhaal, Jarhabhata, Police Station Civil Lines, Bilaspur, Tahsil & Distt. Bilaspur, Chhattisgarh

---- Respondent

For Petitioner	:	Dr. N.K.Shukla, Sr. Advocate with Mr. Vikram Sharma, Advocate
For Respondent No.1	:	Mr. Neeraj Sharma, Dy. Govt. Advocate
For Respondent No.2	:	Mr. Devesh Chandra Verma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

22.11.2017

Heard

1. It is contended that the instant petition is primarily against the order dated 19.12.2013 wherein charges have been framed and further proceedings wherein on an application filed under Section 156(3) of Cr.P.C. by the respondent, the direction was made by the Judicial Magistrate First Class for registration of FIR and after investigation either the final report or the closure report should be placed. It is stated such order cannot be passed. It is stated without any basis the FIR was registered and subsequently the charge sheet was filed after investigation and charges were also framed. The said order was subject of challenge in the revision and the revisional Court by the order dated 25.04.2015 passed in

Criminal Revision No.83/2014 has dismissed the revision and affirmed the framing of charge.

2. Learned counsel for the petitioner would submit that when the application was filed under Section 156(3) of Cr.P.C., no order for investigation can be made and even if the FIR is registered, the investigation has to be carried out. In this case the investigation has not been carried out and directly on the basis of the FIR, charge sheet has been filed and it is further submitted that the charge sheet has been filed on the basis of the statements which were recorded prior to lodging of the FIR.
3. Learned counsel appearing for the respondents opposes the argument advanced by the learned counsel for the petitioner.
4. As has been laid down in case of ***Hemant Yashwant Dhage v. State of Maharashtra & Ors.***, reported in ***(2016) 6 SCC 273***, it is a settled proposition that in order to enable the police to start investigation in the matter, Magistrate can direct police to register FIR and even where a Magistrate does not do so in explicit words but directs for investigation under Section 156(3) of Cr.P.C., the police should register an FIR.
5. Perusal of the record would further show that the order of revisional Court dated 25.04.2015 is against the order dated 11.03.2014 of J.M.F.C. wherein charge under Section 294, 323 & 506-B of I.P.C. has been framed against the petitioner. Therefore, primarily the framing of charge is in question. The revisional Court by its order dismissed the revision and refused to entertain the plea against framing of the charge.
6. As the facts would suggest that after filing of the charge sheet, the Court of Judicial Magistrate First Class after going through the

charge sheet has framed the charges, therefore, at this stage it would not be proper to go back following the principles laid down in case of ***State of Rajasthan v. Fatehkaran Mehdu***, reported in ***AIR 2017 SC 796*** wherein it is stated that at the stage of framing of a charge, the Court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied.

7. Considering the same, since the Judicial Magistrate First Class has already framed the charge after going through the entire charge sheet, I do not find any reason to interfere with such framing of charge in exercise of power under Section 482 of Cr.P.C.
8. In this of the above, the petition has no merit and accordingly it is dismissed.

Sd/-
(Goutam Bhaduri)
Judge