

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 520 of 2017

- Bhagat Ram Khatkar @ Tiblu S/o Late Ludhuraam, Aged About 65 Years R/o Village Lilaipali, Police Station Sarsaiwa, In The Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh. ---
Petitioner

Versus

- State of Chhattisgarh through The Station House Officer, Police Station Sarsaiwa, in the Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh. ---
Respondent

For the applicant	: Mr. Santosh Kumar Verma, Advocate
For the State	: Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

25.09.2017

1. This revision is against the order dated 07.04.2017 passed by the Court of learned First Additional Sessions Judge, Baloda Bazar, in Sessions Case No. 09/2017 whereby the charges have been framed against the applicant under sections 294, 325, 506-B & 307 read with Section 34 of IPC.
2. Learned counsel for the applicant would submit that the applicant has been falsely implicated in this case since initially the FIR was lodged against the unknown persons and there was no restriction on the complainant to reveal the name of applicant at the initial stage but, belatedly his name was mentioned after a month of the incident and because of the enmity which was existing in Panchayat election, his name has been inculpated. He submits that under these facts and circumstances of the case, no charges can be framed against the applicant, consequently the applicant may be discharged.

3. Per contra, learned State Counsel opposes the bail application and submits that as per the statement of the victim, Bharatlal Bajaj and the memorandum statement of co-accused, it would be clear that the applicant was very much involved in commission of such crime.
4. Perused the statement of victim Bharatlal Bajaj wherein he stated that while he was going back on his motorcycle he was intercepted and thereafter he was assaulted by the accused wherein one of the accused have been named as the present applicant. The memorandum statement of the co-accused is also perused and on his memorandum a rod which was used in the assault was seized which *prima facie* shows that the seized rod contains the blood stains.
5. The doctors query report also shows that the injury which was caused could have been caused by hard and blunt object. The injured Bharatlal has made categorical statement against the present applicant that he caught hold of his hand from behind while the other accused was assaulting.
6. Whether the applicant has been falsely involved or not cannot be adjudicated at the stage of framing of Charge. Hon'ble the Supreme Court has observed that it is well settled that at the stage of framing of charge, the defence of accused could not be put forth. The acceptance of the contention of the learned counsel for the accused would amount to permitting the accused to adduce his defence which is against the criminal jurisprudence. Therefore, taking into account the above position of law, the argument which has been advanced by the learned counsel for the applicant, cannot be accepted as *prima facie* the Court has to only see whether there is ground to presume that the accused had

committed the offence or not ?

7. The scope of interference and exercise of jurisdiction under Section 397 of Cr.P.C. was again reiterated by their Lordship in case of *State of Rajasthan v. Fatehkaran Mehdu*, reported in *AIR 2017 SC 796*. 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.
8. Applying the aforesaid principles in this case after going through the charge sheet and the documents annexed thereto, at this stage, the defence adduced by the applicant cannot be accepted as gospel truth. The same has to be decided on the floor of the Court during evidence while they are tested by virtue of examination and cross examination.
9. Therefore, in view of the foregoing discussion, I am not inclined to interfere with the order of framing of charge at this stage. Accordingly, the revision petition is dismissed.

Sd/-
GOUTAM BHADURI
JUDGE