

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 889 of 2017

1. Pushpendra Shrivasa, S/o. Khemraj Shrivasa, Aged About 18 Years, R/o. Village Kamrai, Police Station - Kapu, Tahsil - Dharamjaigarh, District – Raigarh, Chhattisgarh.
2. Rita Shrivasa, D/o. Bhunath Shrivasa, R/o. Village Kamrai (Wrongly Mentioned Makrai), Police Station -Kapu, Tahsil - Dharamjaigarh, District - Raigarh, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through : The District Magistrate- Raigarh, District - Raigarh, Chhattisgarh.
2. The Inspector General Of Police, Bilaspur, District- Bilaspur Chhattisgarh.
3. The Superintendent Of Police, Raigarh, District - Raigarh Chhattisgarh.
4. Rajaram Rathiya, S/o. Baigaram Rathiya, Aged About 35 Years, R/o. Kamrai, Police Station - Kapu, Tahsil - Dharamjaigarh, District - Raigarh Chhattisgarh.

-----Respondents

For Petitioners	: Mr. M.K. Jaiswal, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

21/07/2017

Heard.

1. Counsel for the petitioners submit that regarding incident in which the cousin brother of the petitioners namely Punkesh Shrivasa was murdered, a sessions trial No.128/2016 is pending before the Court of First Additional Sessions Judge, Raigarh for trial. Petitioner filed

an application U/s. 319 of Cr.P.C. alleging that respondent No.4 Raja Ram Rathiya had on account of enmity with deceased hired accused persons for committing murder of deceased, hence he may be arrayed as an accused in this case. This application was later on withdrawn by the petitioners, thereafter, the prosecution filed an application U/s. 319 of Cr.P.C., which has been rejected by the trial Court by the impugned order dated 10.05.2017. It is submitted that some evidence have been recorded by the trial Court later on, which shows involvement of the respondent No.4 in the incident. Hence this case may be admitted for final hearing.

2. Counsel for the State has opposed the petition.
3. The impugned order dated 10.05.2017 was passed before recording of evidence by the trial Court in S.T. No.128/2016. Copies of the depositions of witness Pushpendra (P.W.-1), Nita Shrivastava (P.W.-2) are produced with the petition. Their statements do not disclose commission of any overt act by the respondent No.4. Counsel for the petitioner relies on the affidavit filed before the trial Court by one Mangal Sai, who happens to be father of one of the accused Yashpal and he has stated that his son has informed him that respondent No.4 hired the accused persons for committing murder of the deceased. The statement made by Mangal Sai on affidavit can not be regarded as evidence collected in the investigation. At the most, a suitable direction can be given to the concerned Police Station to do additional investigation on the basis of the statement made by Mangal Sai regarding involvement of the respondent No.4 in the incident.

4. Hence a direction is issued to the respondent No.1, 2 & 3 to conduct further investigation in Crime No.62/2016, registered at P.S. - Kapu, District - Raigarh on the basis of statement made by Mangal Sai on affidavit before the Court below and if some material is found for prosecution of respondent No.4, then additional charge-sheet may also be filed in this respect.
5. With these directions and observations, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge