

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 869 of 2016**

Hemant Dhritlahare son of Chaitram Dhritlahare, aged about 25 years, resident of village Tonatar, Police Station Bhatapara, (Gramin), District Baloda Bazar (CG).

---- Applicant**Versus**

State of Chhattisgarh through the Station House Officer, Police Station Bhatapara (Gramin), District Balodabazar-Bhatapara (CG).

---- Respondent

For applicant	:	Shri Sachin Singh Rajput, Advocate.
For Respondent/State	:	Shri Vinod Tekam, Panel Lawyer.

SB:Hon'ble Shri Justice P.Sam Koshy**Order On Board****31/01/2017**

1. For the reasons assigned in the application and found them to be satisfactory, IA No.1, application for condonation of delay, is allowed and delay of 75 days in filing this revision is condoned.
2. The present revision has been preferred assailing the order dated 22.03.2016 passed by the Additional Sessions Judge, Bhatapara, in Sessions Trial No.H-02/2016, whereby the court below has framed charge against the applicant for the offence under Sections 294, 506-Part-II, 307/34, 325/34 and 427 IPC.
3. Learned counsel appearing for the applicant submits that so far as offence under Sections 307 and 325 IPC are concerned, there is no material whatsoever in the entire charge sheet which could bring home the offence under these two sections. He submits that neither

is there any grievous injury found on the injured Anil Vaishnav and nor is there any attempt to murder made by the applicant so as to attract the offence under Section 307 IPC. Further, referring to Dehati Nalisi and FIR, he submits that the complainant themselves state it to be an accident and therefore it cannot be an offence under Section 307 IPC. Thus, prayed for quashing of the charge levelled against the applicant.

4. The State counsel however opposes the petition and submits that it is a case where the contents of the FIR as well as Dehati Nalisi itself clearly reflects that the allegation against the applicant was that he was instructed by the owner of the JCB Machine i.e. Rajendra Kumar Verma, co-accused, to proceed further with the JCB machine and crush whoever tries to create obstacle or hurdle in his way. State counsel further referred to MLC report which shows that injured Anil Vaishnav sustained certain fractures. These materials are sufficient to bring home the offence under Sections 307 and 325 IPC. He further submits that at this stage, all that the court has to see is whether there are sufficient materials available before the court below for framing of charge and which from the contents of the revision as well as the document enclosed is evidently established. Thus, prayed for dismissal of the petition.
5. Having considered the rival contentions put forth on either side and on perusal of record particularly the statement of injured Anil Vaishnav and also the statement of one Devendra Kumar Sen, an eyewitness, it clearly reflects that there was some business rivalry

going on between the co-accused Rajendra Kumar Verma and the complainant Anil Vaishnav. When Anil Vaishnav tried to create obstacle/hurdle in the business of co-accused Rajendra Kumar Verma, he had instructed the present applicant, who was the driver of JCB machine belonging to the co-accused Rajendra Kumar Verma, to crush all those persons who creates obstacle/hurdle in his way of operating the JCB machine and in the process the injured Anil Vaishnav came in contact with the JCB machine and sustained injuries.

6. In addition, there is also an allegation that the applicant has crushed the motorcycle belonging to complainant Anil Vaishnav. MLC report of the doctor also shows that injured Anil sustained fracture in the said incident. Thus, this court is of the opinion that prima facie the court below was justified in framing charge under Sections 307 and 325 IPC and also other sections which have been charged.
7. This court while hearing a petition under Section 482 CrPC would not conduct a roving inquiry or a mini trial so as to reach to the conclusion as to whether the offence has been made out or not and whether the available materials could lead to the conviction of the petitioner or not. These are the facts which would be adjudicated upon at the relevant time after the evidences are recorded. The Supreme Court has even gone to the extent of holding that even if there is a strong suspicion made out even then the Court is justified in framing of the charge.

8. In **Amit Kapoor Vs. Ramesh Chander and Anr**, (2012) 9 SCC 460, the Supreme Court has very clearly laid down the principle that inherent as well as revisional jurisdiction should be exercised cautiously. If the jurisdiction under the Code in relation to quashing of an FIR is circumscribed by the factum and caution afore noticed, in that event, the revisional jurisdiction, particularly while dealing with framing of a charge, has to be even more limited. At the initial stage of framing of a charge, the court is concerned not with the proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not be applied at that stage.
9. This view has further been reiterated by the Supreme Court in the case of **Vinod Raghuvanshi Vs. Ajay Arora and others**, reported in (2013) 10 SCC 581, wherein it has been held :

“It is a settled legal proposition that while considering the case for quashing of the criminal proceedings the court should not “kill a stillborn child”, and appropriate prosecution should not be stifled unless there are compelling circumstances to do so. An investigation should not be shut out at the threshold if the allegations have some substance. When a prosecution at the initial stage is to be quashed, the test to be applied by the court is whether the uncontroverted allegations as made, prima facie establish the offence. At this stage neither can the court embark upon an inquiry, whether the allegations in the complaint are likely to be established by evidence nor should the court judge the probability, reliability or genuineness of the allegations made therein. More so, the charge-sheet filed or charges framed at the initial stage can be altered/amended or a charge can be added at the subsequent stage, after the evidence is adduced in

view of the provisions of Section 216 CrPC.”

10. In the case of **N. Soundaram Vs. P.K. Pounraj and Another**, reported in (2014) 10 SCC 616, the Supreme Court in paragraph 13 has categorically held that :

“**13.** It is well settled by this Court in a catena of cases that the power under Section 482 CrPC has to be exercised sparingly and cautiously to prevent the abuse of process of any court and to secure the ends of justice. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should refrain from giving a prima facie decision unless there are compelling circumstances to do so. Taking the allegations and the complaint as they were, without adding or subtracting anything, if no offence was made out, only then the High Court would be justified in quashing the proceedings in the exercise of its power under Section 482 CrPC. An investigation should not be shut out at the threshold if the allegations have some substance.”

11. For the foregoing reasons and in view of the aforesaid legal pronouncements made by the Supreme Court, this Court is of the opinion that there is no illegality or infirmity committed by the Court below while framing of charge against the applicant calling for an interference invoking the extraordinary inherent powers under Section 482 CrPC conferred upon this Court.
12. The petition being devoid of merit thus is liable to be and is accordingly dismissed.
13. Any observations made in this revision shall not come in way before the court below while deciding the matter on merits.

Sd/-
(P.Sam Koshy)
Judge