

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRR No. 898 of 2017

1. Dadhipal Singh S/o Shri Jawahar Singh, Aged About 30 Years R/o Village Badkimahri, Police Station Balrampur, District Balrampur Ramanujganj, Chhattisgarh.
2. Avtar Singh, S/o Shri Jawahar Singh, Aged About 22 Years R/o Village Badkimahri, Police Station Balrampur, District Balrampur Ramanujganj, Chhattisgarh.
3. Nirmodh Singh S/o Shri Dharup Singh, Aged About 21 Years R/o Village Badkimahri, Police Station Balrampur, District Balrampur Ramanujganj (C.G.). ---- **Applicants**

Versus

State of Chhattisgarh Through District Magistrate, Balrampur,
Chhattisgarh. ---- **Respondent**

For the applicant : Mr. Dhirendra Pandey, Advocate.
For the State : Mr. Sangharsh Pandey, Dy. Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

20.09.2017

1. This petition is against the order dated 17.07.2017 passed by the Additional Sessions Judge, Ramanujganj in ST No. 36/2017 whereby charges have been framed against the applicants u/s 294, 506, 323, 34, 307 of IPC.
2. It is contended that the evidence of injured witness Dharamraj Singh would show that on a trivial dispute, the issue aggravated and one of the accused has assaulted the victim by way of club and they were not initially armed and therefore, the intention to inculcate the accused u/s 307 of IPC is completely missing. It is further submitted that subsequently the story of offence u/s 307 of IPC was developed which initially was not

reported in FIR.

3. Perused the FIR dated 14.03.2017 lodged by Dharamraj Singh wherein it is stated that on 13.03.2017 between 7 p.m. and 8 p.m. the dispute took place over claiming a motor cycle which belonged to one Azad. Thereafter, one of the applicants Dadhipal Singh assaulted the victim by way of club on his head and also assaulted the other persons. Thereafter, all the three accused applicants hurled abuses and threatened to kill them.
4. The statement of Dharamraj Singh was perused wherein it is stated that when he wanted to take back the motor cycle of Azad from Nirmodh, subsequently he was abused and was also assaulted by hands and fists and also threatened to kill. Thereafter, one of the applicant assaulted by way of club on his head. The medical report would show that there was a lacerated wound in size of 3" x 2" on parietal region of skull. On a query which was made, the doctor has replied that the injury was dangerous for human life and the person might have died because of injury.
5. Hon'ble the Supreme Court has further 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 mean permitting the accused to adduce his defence at the stage of framing of charge and for examination thereof at that stage 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 ?

6. 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.
7. 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.
8. Therefore, in view of the forgoing 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