

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 921 of 2017

Lalli Bai W/o Ghanaji Ram Sonkar, Aged About 36 Years Resident
Of Khursipar, Police Station And District Balod Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate Balod, District
Balod Chhattisgarh.

--- Respondent

For applicant – Smt. Ranjana Jaiswal, Advocate.
For Respondent/State –Shri Ramakant Pandey, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

27/09/2017

Heard.

1. Instant petition is against the framing of charge under Section 307 of IPC. The order is dated 30/08/2017.
2. Learned counsel for the applicant would submit that MLC report would show that it was a simple injury, therefore case would not fall under Section 307 IPC.
3. Perused the statement of Shyama Bai, mother of the child who was subjected to assault. The statement of mother would show that she had love relation with Prakash Sonkar and since she had pregnancy with such relation, she was married after meeting in the village. However, the applicant who is mother-in-law never liked the baby boy which was born as also the Shyama Bai. On the date of incident of 28/05/2017 when she came from the field while her mother-in-law applicant was alone in the house, she saw that boy was crying and having entered the room she

found that penis was cut. He was profusely bleeding. Thereafter, boy was treated.

4. The Supreme Court in a case law reported in ***AIR 2013 SC 52 – Shoraj Singh Ahlawat Vs. State of U.P*** has observed that the Court trying the case can direct discharge only for the reasons to be recorded by it and only if it considers that the charges against the accused to be groundless. Section 240 of Cr.P.C. provides for framing of a charge which reads as under:

“240. Framing of charge.- (1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.”

5. 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 Vs. 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.

6. Applying the aforesaid principles in this case after going through the charge sheet and the documents annexed to it and the statement of the

mother at this stage the *mens rea* cannot be tested only on the basis of the medical report, same has to be decided on the floor of the court during evidence by virtue of examination and cross examination.

7. 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 petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE