

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1434 of 2017

Naresh @ Chunnu, S/o. Late R.C. Prasad, Aged About 45 Years, R/o. Subash Market, Kursipar, Bhilai, District Durg, Chhattisgarh.

---- **Petitioner**

Versus

State Of Chhattisgarh, Through Police Station Bhilai 3, District Durg, Chhattisgarh.

---- **Respondent**

 For Petitioner : Mr. Prasoon Agrawal, Advocate
 For Respondent : Mr. Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16.11.2017

Heard

1. The instant petition is against the order dated 27.07.2017 passed by the Eighth Additional Sessions Judge, Durg, in Criminal Revision No.176/2016.
2. Perusal of the order dated 27.07.2017 (Annexure P-1) would show that the order which records the reason for rejection has not been filed, only the order sheet has been filed which records that separate orders have been passed. One photocopy of the order dated 16.06.2016 has been placed on record, which appears to be passed by the J.M.F.C.
3. Learned counsel for the petitioner submits that the petitioner is the owner of the Company namely Super Petro Chemical & Company, which is engaged in transportation of the oil and some complaint was made that during the transportation of the oil, certain quantity of the oil was taken out. It is further submitted that the prosecution has not produced any evidence that whether the Truck which was

carrying the oil was sealed. Consequently, it cannot be stated that the oil has been stolen during the transit. Therefore, the charges which has been framed and the entire proceedings requires to be quashed.

4. Perusal of the document filed alongwith this petition would show that the order dated 27.07.2017 is only an order sheet, which is placed on record and no effective order which is passed separately has been placed. One photocopy of the order dated 16.06.2016 passed by the J.M.F.C. shows that one complainant Hemant Parashar had filed a complaint and on that basis after investigation charge sheet has been filed under Section 407, 285, 467 & 468 of I.P.C. Since no documents have been placed on record, the photocopy of the order dated 16.06.2016 purports that the complainant Company had given some contract to Sanjay Kumar Transport Hathkhoj for transportation of the furnace oil. The said Sanjay Kumar Transport who was in hold of the vehicle C.G.07 G 7709 was carrying 18 K.L. furnace oil and he had taken out the furnace oil after breaking open the seal. The charge sheet which has been filed wherein the involvement of present petitioner has been stated that the petitioner has taken out such furnace oil alongwith others. The order further shows that one cash memo was produced by the petitioner of Bharat Petroleum which was stated to be forged by the officers of the Bharat Petroleum, therefore, the Judicial Magistrate First Class refused to discharge the petitioner from the charges.
5. In this case, the copy of the charge sheet has not been filed. The argument has been advanced that no offence is made out, as it is not proved by the prosecution whether the Truck which is carrying

furnace oil was sealed properly. The said argument can only be considered after the evidence is adduced before the Court below. *Prima facie* reading of the order of the J.M.F.C. do not show that any illegality has been committed. Primarily, it appears that the petition is against the framing of the charge.

6. The scope of interference and exercise of jurisdiction under Section 397 of Cr.P.C. was discussed by their Lordship in case of ***State of Rajasthan v. Fatehkaran Mehdu***, reported in ***AIR 2017 SC 796*** wherein 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. In view of this, in absence of any documents, it cannot be *prima facie* stated that the Court has wrongly framed the charges. The petition has no merit and accordingly it is dismissed.

Sd/-
(Goutam Bhaduri)
Judge