

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1202 of 2016**

- Hari Om Singh S/o Shri Giriraj Singh Aged About 19 Years R/o Village- Uslapur, Police Chowki- Fasterpur, Tehsil & District- Mungeli, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station- City Kotwali, Mungeli, District Mungeli, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Anish Tiwari, Advocate
For Respondent-State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

04/01/2017

1. It is vehemently argued that the learned trial Court has committed serious error of law by framing charges against the applicant and the other accused persons for committing offence under Section 307/149 IPC, amongst other offences. To buttress the submission, it is put forth that had there been any intention on the part of the applicant to commit attempt to murder of the injured, five accused persons could have easily overpowered the victim to brutally assault him causing serious injuries, which has not been done, therefore, there was no intention to commit attempt to murder. It is also argued that in the FIR itself the victim has mentioned that there is subsisting dispute between the parties and the incident has taken place at a marriage hall, therefore, a trivial incident has been exaggerated for framing charges under Section 307/149 IPC.

2. I have heard learned counsel for the applicant at length and perused the charge-sheet.
3. Since a detailed finding as to the offence under Section 307/149 IPC may adversely affect applicant's case in the trial, this Court is refraining from discussing the entire evidence, however, suffice it would be to say that there is prima facie material available in the charge-sheet for framing charges under Section 307/149 IPC. At the stage of framing of charge, the trial Court is not required to record a finding as to whether the charges would ultimately be proved or not. The requirement is of only prima facie satisfaction that the accused persons should be sent for trial for a particular offence. It will remain open for the applicants to raise all possible defense in course of trial.
4. With the above observation, the criminal revision is dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Ashu