

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 902 of 2018

Amit Thakur @ Pappu @ Dushyunt Singh, S/o. Shri Narayan Singh, Aged About 34 Years, R/o. Pauni, Police Station Mungeli, District Mungeli Chhattisgarh.

---- **Petitioner**

Versus

State Of Chhattisgarh, Through Police Station Chakarbhata, District Bilaspur, Chhattisgarh.

---- **Respondent**

For Petitioner : Mr. Rajeev Bharat, Advocate

For Respondent : Mrs. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09.05.2018

Heard

1. This petition is against the order dated 04.09.2017 passed in Criminal Revision No.16/2017 by the Court of Ninth Additional Session Judge, Bilaspur.
2. As per the prosecution case, a report was made by the victim that the present applicant used to send messages through his mobile and also used to follow her to her working place.
3. Learned counsel for the petitioner would submit though the complaint has been made by the complainant that the petitioner was talking and had sent messages through the mobile to the phone number of the complainant and attempt was made to foster a personal interaction repeatedly despite repetition of disinterest but the call details of the mobile has not been placed on record. Therefore, the entire substance of the complaint is without any prove.

4. Perusal of the statement of the victim shows that the complaint of stalking is also made, therefore, at this stage, it would not be proper to appreciate the evidence in the statement of the witness that no offence is made out.
5. The Supreme Court in a case of **Shoraj Singh Ahlawat Vs. State of U.P.** reported in **AIR 2013 SC 52** 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.”

6. 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 petitioner, 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 ?
7. 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.

8. 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.
9. 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