

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 947 of 2018**

- Prateek Agrawal S/o Shri Ram Narayan Agrawal Aged About 31 Years R/o Vivekanand Colony, Gully No. 03, Tahsil And District Dhamtari Chhattisgarh

---- **Petitioner****Versus**

- Dr. Bhupendra Soni S/o Late Bhuvneshwar Soni Aged About 41 Years R/o H/87, Sinchayee Colony, Gangrel, Tahsil And District Dhamtari Chhattisgarh

---- **Respondent**

For Petitioner	:	Shri S. Dewangan, Advocate
For Respondent	:	Shri Sangharsh Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****15/05/2018**

1. Heard.
2. The present petition is against the order dated 12.02.2018 passed in Criminal Revision No.67/16, whereby the charge framed under Section 406 IPC by the JMFC, Dhamtari was affirmed.
3. The facts of this case are that a complaint was made under Sections 419, 420, 465, 467, 468 & 506 II IPC by the respondent that the petitioner entered into an agreement for construction of the house and for that an amount of Rs.26,02,451/- was received but neither the construction was carried out nor the amount was returned. Thereby the criminal breach of trust was committed.
4. Learned counsel for the petitioner submits that the case is of civil nature and

no criminal breach of trust has been committed, therefore, the charge so framed against the petitioner may be set aside.

5. Prima facie it appears that the Court after evaluating the evidence framed the charge that after taking money the petitioner has deliberately not discharged the obligation and has dishonestly misappropriated the amount and spent the same for his own use.
6. As has been laid down in the 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 petitioner 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 petition is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashu