

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.744 of 2018

Kanhaiya Lal Mishra, S/o Late Makhan Mishra, aged about 52 years, R/o Village Pendari (wrongly not been mention the name of village Pendari), P.S. Chakarbhata, District Bilaspur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through District Magistrate, Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri Dheerendra Pandey, Advocate
For Respondent	:	Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

23.7.2018

1. Heard on admission. Perused the material available with due care.
2. The revision has been preferred against framing of the charge against the Applicant.
3. Vide order dated 16.4.2018, the 9th Additional Sessions Judge, Bilaspur has framed charge against the Applicant under Section 302 of the Indian Penal Code on the basis of dying declaration made by the deceased on 13.3.2015 and the statements of some of the witnesses recorded under Section 161 of the Code of Criminal Procedure.
4. Learned Counsel appearing for the Applicant submits that at the time of incident, the Applicant was not present at the place of occurrence. At that time, he was present in his office and the distance between the office and the place of occurrence is so long

that it could not be possible for the Applicant to reach to the place of occurrence at the time of incident. Therefore, *prima facie*, no case is made out against the Applicant.

5. Learned Counsel appearing for the State supported the impugned order.
6. In her dying declaration dated 13.3.2015, deceased Rajni Mishra has categorically stated that the Applicant and co-accused Jhalla Mishra had caught the deceased and burnt her. Some of the prosecution witnesses have also stated in their statements recorded by the police under Section 161 of the Code of Criminal Procedure that in the hospital the deceased had told them that both the Applicant and co-accused Jhalla Mishra had burnt her. Therefore, there is sufficient material available on record on the basis of which the Trial Court has rightly framed the charge against the Applicant.
7. Thus, I find no merit in the revision. It is, therefore, dismissed.

Sd/-

(Arvind Singh Chandel)
JUDGE