

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.791 of 2018

Vivek Kumar Shukla, S/o Pradeep Kumar Shukla, aged 28 years, R/o Railway Crossing, Bajrang Ward, Bhatapara, P.S. Bhatapara District Balodabazar, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through P.S. City Kotwali, District Raipur, Chhattisgarh

--- Respondent

For Applicant	:	Shri N. Naha Roy, Advocate
For Respondent	:	Shri Satish Gupta, Govt. Advocate
For Objector	:	Shri Prasoon Agrawal and Shri Sharad Mishra, Advocates

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

10.8.2018

1. Heard on admission.
2. Vide the impugned order dated 2.6.2018, the 8th Additional Sessions Judge, Raipur in Sessions Trial No.12 of 2018 arising out of Crime No.331 of 2017 has framed charges against the Applicant under Sections 452, 294, 323, 324, 506 Part II and 307 of the I.P.C. Being aggrieved by the said order, the instant revision has been filed by the Applicant/accused.
3. As per the prosecution story, on 16.10.2017, wife of the Applicant, namely, Ritu Shukla lodged First Information Report alleging that the Applicant entered her parental house, where she was residing and committed misbehaviour and *marpeet* with her father Basant Mishra. On an intervention made by her brothers Vedant Mishra and Atul Mishra, he assaulted them with a sharp edged weapon

which caused them injuries. On the basis of said FIR, initially, offence under Sections 452, 294, 323, 324 and 506 Part II of the I.P.C. was registered. Later on, on the basis of medical report of both the injured brothers, on receipt of reply of queries made by the police, offence under Section 307 of the I.P.C. has also been added against the accused and after investigation, charge-sheet has been filed and vide order dated 2.6.2018, the Trial Court has framed the charges as mentioned above.

4. Learned Counsel appearing for the Applicant/accused submits that there is nothing on record on the basis of which the charge under Section 307 of the IPC could be framed against the Applicant. Even if the entire evidence as collected by the prosecution is taken as it is, *prima facie*, it is only established that the Applicant had gone to the house of Basant Mishra, father of wife of the Applicant and due to some quarrel, a fight had taken place there between the Applicant and the brothers of wife of the Applicant in which the above-named two brothers sustained only those injuries which were simple in nature and no injury was caused to them on any vital part of their bodies. After 10-12 days of the medical examination of both the injured persons, by making queries by the police, the Applicant has been falsely implicated for the offence under Section 307 of the IPC.
5. Learned Counsel appearing for the State/Respondent opposing the arguments advanced on behalf of the Applicant, submits that as stated by the doctor, two injuries were present on the chest and palm of Atul Mishra and both the injuries were caused by a sharp edged weapon. The injury caused on the chest was 15 cms.

subcutaneous deep. The injury caused on the palm was 8 cms. muscle deep. As mentioned in the medical certificate dated 28.10.2017, more than 30 stitches were done on the injuries sustained by Atul Mishra. He further submits that in reply to the query also, the doctor has opined that if the injuries of Atul Mishra could not be treated on time, it could have been dangerous to his life.

6. Learned Counsel appearing for Objector/Complainant Ritu Shukla supports the arguments advanced by Learned Counsel appearing for the State/Respondent.
7. I have heard Learned Counsel appearing for the parties and perused the case diary with due care.
8. There is no doubt that Atul Mishra had received one injury on his chest which is a vital part of the body and the said injury was 15 cms. subcutaneous deep. As opined by the doctor, if this injury could not be treated on time, it could have been dangerous to life. In my considered opinion, there is sufficient material available on record on the basis of which *prima facie* charge under Section 307 of the IPC is made out against the Applicant.
9. In **AIR 1980 SC 1780 (Kewal Krishnan v. Suraj Bhan)**, it has been observed by the Supreme Court that at the stage of framing of charge, the Court is not required to go into the details of the investigation, but to only arrive at a *prima facie* finding on the materials made available as to whether a charge could be sustained as recommended in the charge-sheet.

- 10.** In **(2005) 1 SCC 568 (State of Orissa v. Devendranath Padhi)**, it has been further observed that holding a mini trial at the time of framing of charge has been depreciated.
- 11.** Thus, in the light of above discussion, I find no merit in the revision. It is, therefore, dismissed.

Sd/-

(Arvind Singh Chandel)
JUDGE