

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1465 of 2018

Doodhnath Satnami, S/o. Late Mansharam Satnami, Aged About 55 Years, R/o. Katulbod (Satnami Para), Ward No. 59, Durg P.O. SAF Line, Bhilai, District Durg, Chhattisgarh

---- **Petitioner**

Versus

State Of Chhattisgarh, Through District Magistrate Durg, Chhattisgarh.

---- **Respondent**

For Petitioner : Mr. Varun Sharma, Advocate

For Respondent : Mr. Ashish Shukla, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

31.07.2018

Heard

1. This petition is against the order dated 29.06.2018 passed in Criminal Revision No.37/2018 by the Additional Sessions Judge Durg. By such order, the revisional Court has affirmed the order of the J.M.F.C. dated 07.01.2017 whereby the charges were framed against the petitioner under Section 294, 506 Part-II & 186 of Indian Penal Code.
2. Learned counsel for the petitioner submits that reading of the allegation would prima facie reflects that inference cannot be arrived at that the offence has been committed under Section 186 of I.P.C. He referred to **AIR 1963 SC 1511** and would submit that unless there is an intension established, the offence under Section 186 of I.P.C. cannot be inferred.
3. Perused the report of the complainant D.I.G. Police dated 13.04.2004. In the report, it is stated that the petitioner entered into the chamber of the complainant, started shouting and when he was asked to leave the chamber, after leaving the chamber he

abused and thereafter the persons came. In the facts of this case, at this stage, the intension cannot be inferred when the complainant was abused in his chamber whether there was an intension to obstruct or not prima facie cannot be sidelined at this stage.

4. 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.”

5. Reading of Section 240 shows that if, upon consideration of the police report and the documents sent therewith and making such examination, if any, of the accused as the Magistrate thinks necessary or the Magistrate is of the opinion that there is ground for presuming that the accused has committed an offence triable under Chapter XIX, which such Magistrate is competent to try and which can be adequately punished by him. The ambit of section 239 Cr.P.C., and the approach to be adopted by the Court while exercising the powers vested in it under the said provision fell for consideration of this Court in ***Onkar Nath Mishra Vs. state (NCT of Delhi) (2008) 2 SCC 561 : (AIR 2008 SC (Supp) 204 : 2008 AIR SCW 96)***.

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 and going through the report made by the complainant, I am not inclined to interfere with the order of framing of charge against the petitioner at this stage. Accordingly, the petition has no merit and is dismissed.

Sd/-
(Goutam Bhaduri)
Judge