

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 568 of 2017

Sanjay Dubey S/o Late Bihari Lal Dubey Aged About 52 Years R/o D-16, Vinobanagar, Police Station Tarbahar, Bilaspur, Chhattisgarh.,
Chhattisgarh --- **Petitioner**

Versus

1. State of Chhattisgarh through Police Station Sarkanda, District Bilaspur, Chhattisgarh., Chhattisgarh
2. Akhilesh Pathak S/o Surajprasad Pathak Aged About 52 Years R/o Near Gandhi Chowk, Bilaspur, Police Station City Kotwali, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh ---
Respondent

For the applicant	:	Mr. H.B. Agrawal, Sr. Advocate with Mr. Pankaj Agrawal and Ms. Pragya Pandey Advocate.
For the State	:	Mr. Bhaskar Payashi, Panel Lawyer
For respondent no. 2	:	Mr. Prateek Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

31.01.2018

1. The instant petition is against the order dated 02nd March 2017 whereby the Revisional Court has affirmed the order of Chief Judicial Magistrate, Bilaspur dated 25.10.2016 in Criminal Case No. 752 of 2015 (State Vs. Kailash Pathak and others).
2. Learned counsel for the petitioner would submit that under the facts and circumstances of the case, the Court should have added the charges u/s 307 of IPC according to the injury report. He further submits that the report which is on record would prima facie reveal that offence u/s 307 is made out.
3. A perusal of the order would show that it is the case of

prosecution that the petitioner was assaulted by one Ashish Pathak on 24.01.2015 at the Regional Transport Office, for which, the charge sheet has been filed under sections 294, 326, 506 Part II of IPC. The prosecution has relied on the report of Dr. Sunil Pendro and as per his report, after his examination, no fracture was found on the injured. As per the expert opinion, it has been recorded that the injuries were simple in nature, therefore, during the course of process of recording evidence and after the evidence is recorded if the court comes to a finding that the charges u/s 307 of IPC is made out then certainly the court can amend the charge as per section 216 of the Code of Criminal Procedure. At this stage, only at the behest of the petitioner, it cannot be stated that the injuries so caused were grievous in nature which would fall u/s 307 of IPC. Accordingly, the petition has no merit and is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**