

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.25 of 2018

Narsingh Yadav, S/o Sonau Yadav, aged about 25 years, R/o Dataod, P.S. Jaijaipur, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Station House Officer, Police Station Kharsiya, District Raigarh, Chhattisgarh

--- Respondent

For Applicant	:	Shri Surfaraz Khan, Advocate
For Respondent	:	Shri Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

25.4.2018

1. With the consent of Learned Counsel appearing for the parties, the revision is heard and decided finally.
2. This revision has been preferred by the Applicant against framing of charge against him on 21.9.2017 under Section 120B of the IPC (two counts) in Sessions Trial No.89 of 2017 by the 3rd Additional Sessions Judge to the Court of 1st Additional Sessions Judge, Raigarh.
3. It is submitted by Learned Counsel appearing for the Applicant that the only charge framed against the Applicant is under Section 120B of the IPC (two counts). The charge under Section 120B of the IPC simplicitor cannot be framed against anybody as he cannot be said to have conspired for an offence which is not known.
4. Learned Counsel appearing for the State admits the fact that the only charge under Section 120B of the IPC has been framed against the Applicant.

5. Under the scheme of the Code of Criminal Procedure, a charge is to be framed on the basis of the evidence contained in the charge-sheet. Section 120B of the IPC is an offence of conspiracy. It cannot be applied simplicitor unless and until some offence is disclosed. There cannot be any conspiracy without any offence. Section 120B of the IPC has to be appended with a primary offence.
6. Thus, there cannot be any charge of conspiracy against any accused without aiding of a substantive offence. Hence, the only charge under Section 120B of the IPC (two counts), which has been framed against the Applicant is against the provision of law.
7. Therefore, the charge framed against the present Applicant under Section 120B of the IPC (two counts) is quashed and the matter is remanded back to the Trial Court for framing of appropriate charge, if any, on the basis of the material available on record in accordance with law.
8. Consequently, the revision is allowed in the aforesaid terms.
9. Record of the Court below be sent back along with a copy of this order for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge