

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.820 of 2016

1. Javed Parvej @ Aarif, S/o Haji Latif Miyan, aged about 47 years,
2. Aasif Iqbal, S/o Haji Latif Miyan, aged about 45 years,
3. Rashid Iqbal, S/o Haji Latif Miyan, aged about 42 years,

All are R/o Near Hanuman Temple, Telipara, Raipur, District Raipur (C.G.)

(Accused)
---- Petitioners

Versus

1. Smt. Shabnam, through Haji Mohammad Vasi Quareshi (Power of Attorney), R/o Quarter No. H-9, Sector-1, Avanti Vihar Colony, Raipur, Tahsil & District Raipur (C.G.)

(Complainant)

2. State of Chhattisgarh, through the Station House Officer, Police Station Kumhari, District Durg (C.G.)

---- Respondents

For Petitioners: Mr. Aditya Khare, Advocate.

For Respondent No.1: Mr. G.M. Hasan, Advocate.

For Respondent No.2 / State: -

Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/12/2019

1. In the complaint filed by respondent No.1 herein, offences under Sections 420 & 120B of the IPC have been registered against the petitioners and charges were framed by the trial Magistrate on 10-4-2015 against which the petitioners preferred Criminal Revision No.79/2015 which was allowed by the revisional Court by order dated 13-7-2015 and the order dated 10-4-2015 was quashed and the matter was remitted for fresh adjudication and to pass order under Sections 245(1) & 246(1) of the CrPC. This time, again, by a detailed order, the trial Magistrate passed order and framed charges against

the petitioners under Sections 420 & 120B of the IPC against which the petitioners have preferred revision and that has also been dismissed against which this petition under Section 482 of the CrPC has been filed.

2. Mr. Aditya Khare, learned counsel appearing for the petitioners, submits that the instant dispute is purely a civil dispute between the parties and no criminal case is made out against the petitioners for registration of aforesaid offences. He relied upon the judgments of the Supreme Court in the matters of Inder Mohan Goswami and another v. State of Uttaranchal and others¹, Chandran Ratnaswami v. K.C. Palanisamy and others² and M. Suresh v. State of A.P.³ to buttress his submissions.
3. Mr. G.M. Hasan, learned counsel appearing for the complainant / respondent No.1, submits that charges have rightly been framed against the petitioners. He relied upon the decision of the Supreme Court in the matter of State of Tamil Nadu v. Thirukkural Perumal⁴, the decision of the Bombay High Court in the matter of Pulgaon Cotton Mills Ltd., Pulgaon v. Maharashtra Pollution Control Board, Army and Navy Building, Bombay⁵ and that of the High Court of Andhra Pradesh in the matter of Kondlapudi Malla Reddy v. Pullamreddy Balarama Reddy⁶ to buttress his submissions.
4. I have heard learned counsel for the parties and considered their rival submissions and went through the record with utmost circumspection.
5. In the present case, only charges have been framed against the petitioners by the trial Magistrate finding prima facie material against

1 (2007) 12 SCC 1

2 (2013) 6 SCC 740

3 Laws (SC) 2016 7 103

4 Laws (SC) 1995 1 75

5 Laws (Bom) 2000 9 74

6 Laws (APH) 1996 9 80

them for the above-stated offences, all the grounds which the petitioners want to agitate are open to be taken at the time of evidence / trial. Merits of the matter or defence of the case cannot be seen at the time of framing charges, only whether prima facie material is there for proceeding therewith has to be seen at the time of framing charges. Therefore, on remand, the trial Magistrate has threadbare considered the matter and reached to a conclusion that charges are liable to be framed against the petitioner and thus, framed charges against them for offences punishable under Sections 420 & 120B of the IPC. As such, in the considered opinion of this Court all the defences which the petitioners want to raise can be raised and established by them before the trial Court during the course of trial. At this stage, the trial Court has found enough material for framing charges against the petitioners. In view of that, I do not find any merit in the petition, the petition deserves to be and is hereby dismissed. However, the petitioners are at liberty to raise all the grounds during the course of trial. The trial Court is directed to decide the trial and conclude the same within a period of three months from the date of receipt of a copy of this order. This Court has not expressed any opinion on the merits of the matter.

Sd/-
(Sanjay K. Agrawal)
Judge