

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1221 of 2017****Reserved on 19.07.2019**
Pronounced on 31.07.2019

- Ramesh Kumar Chaubey, S/o Late Murlidhar Chaubey, Aged About 65 Years R/o Village Gharghoda, Tahsil And P. S. Gharghoda, District Raigarh Civil And Revenue District Raigarh Chhattisgarh,

---- Applicant/Petitioner**Versus**

1. State Of Chhattisgarh Through District Magistrate, Raigarh District Raigarh Chhattisgarh, Chhattisgarh
2. Jyotish Kumar Mahant, S/o Shri Adbad Das Mahant, Aged About 40 Years R/o Sethi Nagar, Raigarh, P. S. Chakardhar Nagar, Raigarh District Raigarh Chhattisgarh,

---- Respondents

For Applicant/Petitioner	:	Shri Manoj Kumar Sinha, Advocate.
For Non-applicant 1	:	Shri Vimlesh Bajpai, Government Advocate.

Hon'ble Shri Justice Sanjay Agrawal**C.A.V. Order**

1. By way of this petition, the petitioner is questioning the legality and propriety of the order dated 31.07.2017 passed by the 3rd Additional Sessions Judge to the Court of 1st Additional Sessions Judge, Raigarh in Criminal Revision 5/2017 whereby the learned Revisional Court, while affirming the order dated 31.12.2016 passed by the Judicial Magistrate First Class, Gharghoda, framing charge under Section 409 of IPC, has dismissed the Revision.

2. Shri Manoj Kumar Sinha, learned counsel for the petitioner submits that the order impugned affirming the order dated 31.12.2016 of the trial Court framing charge under Section 409 IPC against the petitioner is apparently contrary to law as chargesheet was initially submitted only against respondent No.2 after

investigating the matter by the concerned Investigating Officer. He submits further that the petitioner has been impleaded as a co-accused upon allowing the application filed under Section 319 of the Cr.P.C. by respondent No.2 even without impleading and providing an opportunity of hearing to him, therefore, the order impugned be set aside.

3. On the other hand, Shri Vimlesh Bajpai, learned Government Advocate for the State, while supporting the order impugned, submits that the name of the petitioner in relation to the commission of alleged crime was found to be established prima facie, based upon the prosecution witnesses, and therefore, the contention of the petitioner's counsel is not acceptable and the order impugned deserves to be upheld.

4. I have heard learned counsel for the parties and perused the entire record carefully.

5. At the outset, while deciding the connected matter being Cr.M.P.No.1283/2016 wherein it has been held by this Court vide order dated 31.07.2019 that the petitioner has rightly been impleaded as an accused while entertaining the application filed under Section 319 of the Cr.P.C. In view of that and by considering further the F.I.R. and the Audit Report, vis-a-vis, the statements of the prosecution witnesses alleging therein the involvement of the petitioner in connection with the alleged offence, I do not find any infirmity in the impugned order so as to call for any interference.

6. The petition is accordingly dismissed. No order as to costs.

Sd/-
(Sanjay Agrawal)
Judge

Anjani