

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 659 of 2019**

1. Vishwajit Maiti S/o Bablu Maiti Aged About 39 Years R/o Village - Shri Krishnapur, Police Station Ulberiya, District Hawrah, West Bengal.
2. Smt. Basanti Maiti W/o Vishwajeet Maiti Aged About 39 Years R/o Village - Shri Krishnapur, Police Station Ulberiya, District Hawrah, West Bengal.

---- Applicants**Versus**

- State Of Chhattisgarh, Through : Station House Officer, Police Station - Kamleshwarpur, District Surguja, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Vivek Tripathi, Adv.
For Respondent	:	Mr. Anurag Verma, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****22/08/2019**

1. Heard on admission.
2. The present revision has been filed by the applicant against the order dated 08.01.2019 in Sessions Trial No. 15/2018 passed by the learned Special Judge, POCSO Act, Additional Sessions Judge (FTC), Surguja, District-Surguja, C.G. whereby the learned trial Court has framed charges against the applicants under Sections 363, 366-A, 368, 344/34, 323/34, 376-A, B/109 of IPC and Section 16 read with Section 17 of the Protection of Children from Sexual Offences Act.
3. Brief facts of the case are that, on 12.05.2018 at about 6-7 am., prosecutrix was went outside of the home in the name of hospital, but, she was not returned to the home. Prosecutrix said that two other co-accused namely Abhijeet and Ravi Behal have induced her and took her to tiger point for providing some sweets and thereafter, forcefully took her to Raigarh by motorcycle then from

the Raigarh took her to Calcutta by train and keep her in a rented house and committed rape with her, and thereafter, they left the prosecutrix in the home of present applicants where she has been keep as a labour, so on the basis of the said allegation the applicants have been arrested and the charge-sheet has been filed. Learned trial Court framed charges against the applicants under sections 363, 366-A, 368, 344/34, 323/34, 376-A, B/109 of IPC and Section 16 read with Section 17 of the Protection of Children from Sexual Offences Act. Hence, this revision.

4. Learned counsel for the applicants submits that it is clear from the statement of the prosecutrix, that the role of the present applicants came subsequently and i.e. only the present applicants have keep the prosecutrix in their home, where they have forced to the prosecutrix to done the domestic work and not properly provided the food that cannot be constitute an offence for which the charges have been framed, so order for framing of charges which has been framed against the present applicants are liable to be set aside. He further submits that the learned trial judge totally overlooked the relevant provision of Sections 363, 366-A, 368, 344, 376-A, B/109 of IPC and section 16 read with 17 of Protection of Children from Sexual Offences Act, and arbitrarily without found any material against the applicants wrongly framed the charges for the aforesaid offence. He next submits that the learned trial judge at the time of framing of charge not considered that the role of the applicants have been nowhere found place either abduction of the prosecutrix or at the time of commission of offence of rape, so the learned trial judge has wrongly framed the charge that cannot be sustainable in the eye of law. So, the order dated 08.01.2019 is liable to be set aside and applicants are liable to be discharged of charges.
5. Learned counsel for the State supported the impugned order.
6. Heard the learned counsels for both the parties and perused the material available on record.
7. Prosecutrix and her mother-father clearly stated against the applicants and the learned trial Court found prima facie

involvement of the applicants in the crime in question. While considering the issue of framing of charge, in **Sajjan Kumar V. C.B. I.**¹, Hon'ble the Apex Court held that *“at the time of framing of charges, the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence. At the time of framing of charges, the Court is not expected to go deep into the matter and hold that the materials would not warrant conviction. The Court is required to evaluate the material on record at the stage of Sections 227 or 239 of the Code, as the case may be”*.

8. Thus, there is no merit in the revision and therefore, it is dismissed with affirmation of the order passed by the Court below, at the motion stage itself.

**Sd/-
(Rajani Dubey)
JUDGE**

1 (2010) 9 SCC 368