

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 404 of 2016**

- Id Mohammad S/o Abdul Aziz Mohammad Aged About 53 Years R/o Ward No. 13, Nandini Nagar, Police Station Nandini Nagar, Ahiwara, Tahsil Dhamdha, District Durg Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The District Magistrate, Durg, District Durg Chhattisgarh

---- Respondent

For Petitioner : Shri Praveen Shrivastava, Advocate

For Respondent/State : Shri Akash Pandey, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****06/03/2019**

1. Heard.
2. The present petition is against the framing of the charge under Sections 420, 467, 468 & 471 IPC. The allegations against the petitioner is that he has obtained power of attorney from Bunda Bai by fraud and executed the sale of certain lands. It is also averred that the charge is also to the extent that in order to avail the benefit forged documents were prepared and certain forged documents were used showing it to be the original.
3. The Supreme Court in a case law reported in ***AIR 2013 SC 52 – Shoraj Singh Ahlawat Vs. State of U.P*** has observed that the Court trying the case can direct discharge only for the reasons to be recorded by it and only if it considers

that the charges against the accused to be groundless. Section 240 of Cr.P.C. provides for framing of a charge which reads as under:

“240. Framing of charge.- (1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.”

4. Thus in exercise of jurisdiction against the charge the ratio has been laid down by the Supreme Court in the case of **State of Rajasthan Vs. Fatehkaran Mehdu, reported in AIR 2017 SC 796** that at the stage of framing of charge, the Court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied.
5. Applying the aforesaid principles in this case, after going through the documents, defence adduced by the petitioner cannot be accepted as gospel truth. Therefore, in view of the foregoing discussion, I am not inclined to interfere with the order of framing of charge at this stage. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu