

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.976 of 2018

Manjar Ali, S/o Saiyad Masud Ali, aged about 26 years, R/o Village Nayapara, Sirgitti, P.S. Sirgitti, Tahsil and District Bilaspur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through the Station House Officer, P.S. Sirgitti, District Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri Bhupendra Singh, Advocate
For Respondent	:	Shri Amit Singh, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

27.3.2019

1. With the consent of Learned Counsel appearing for the parties, the revision is heard finally.
2. Vide the impugned order dated 17.7.2018, the Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (henceforth 'the Atrocities Act'), Bilaspur has framed charges against the Applicant for an offence punishable under Section 376(2) IPC and Section 3(2)(v) of the Atrocities Act.
3. Facts of the case are that a report was lodged by the prosecutrix on 28.5.2017 with an averment that the Applicant, on a pretext to marry her, committed sexual intercourse with her and after some time he denied to marry her. At the time of recording of the FIR, age of the prosecutrix was 22 years. During the course of investigation the Applicant filed Cr.M.P. No.1426 of 2017 before this Court. Vide order dated 3.1.2018, this Court dismissed the Cr.M.P.

Being aggrieved by the order dated 3.1.2018, the Applicant preferred a petition for Special Leave to Appeal (Cri) No.2733 of 2018 before the Supreme Court which was dismissed by order dated 6.4.2018 giving liberty to the Applicant to argue before the appropriate forum for his discharge. Charge-sheet was filed on 1.6.2018. Thereafter, on 17.7.2018, the Applicant filed an application under Section 227 Cr.P.C. before the Trial Court for his discharge. But, the Trial Court did not take the said application on record and on the same day framed the charges.

4. Learned Counsel appearing for the Applicant submits that when the Applicant had already submitted an application under Section 227 Cr.P.C. before the Trial Court on 17.7.2018, the Trial Court ought to have decided the said application first. But, the Trial Court did not take the said application on record nor did decide the same and framed the charges. In support of this contention, an affidavit of Surendra Goswami, local Counsel for the Applicant has been submitted. In his affidavit, he has stated that on 17.7.2018, he had filed the application under Section 227 Cr.P.C. before the Trial Court, but the Trial Court did not take the said application on record nor did mention about it in its order-sheet and the application has been kept in the file of the record of the case.
5. Learned Counsel appearing for the State supported the impugned order.
6. I have heard Learned Counsel appearing for the parties and perused the record of the Court below with due care.
7. Perusal of the record of the Trial Court shows that an application

under Section 227 Cr.P.C. dated 17.7.2018 is attached with the record and according to the affidavit of Local Counsel Surendra Goswami, he had filed the said application before the Trial Court on 17.7.2018. It appears that the said application was filed on 17.7.2018, but it was not taken on record by the Trial Court. Since the application was filed on 17.7.2018, the Trial Court ought to have decided the said application first, but, without deciding the said application, the Trial Court has framed the charges.

8. Taking into consideration the above facts and circumstances of the case, the charges framed against the Applicant under Section 376(2) IPC and Section 3(2)(v) of the Atrocities Act are quashed. The Trial Court is directed to decide the application submitted by the Applicant under Section 227 Cr.P.C. annexed with the record of the Trial Court first and thereafter it shall pass an appropriate order.
9. Consequently, the revision is allowed in the aforesaid terms.
10. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge