

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1862 of 2018

1. Deepak Tiwari @ Deepkant Tiwari, S/o. Dhruw Narayan Tiwari, Aged About 34 Years
2. Smt. Anusuiya Tiwari, W/o. Dhruw Narayan Tiwari, Aged About 69 Years.
3. Dhruw Narayan Tiwari, S/o. Late Shivdan Tiwari, Aged About 74 Years.
4. Sapna Tiwari, D/o. Dhruw Narayan Tiwari, Aged About 36 Years.

All are R/o. Village Jamgaon (R), Police Station - Ranchirai, District - Durg, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Mahila Thana, Raipur, Chhattisgarh.
2. Smt. Jyoti Tiwari, W/o. Deepak @ Deepkant Tiwari, Aged About 35 Years, R/o. Nayapara, Phool Chowk, C/o. R.K. Shukla Thana Goal Bazar, Raipur, Chhattisgarh.

---- Respondents

For Petitioners : Mr. Yogendra Chaturvedi, Advocate

For Respondent No.1 : Mr. Chandresh Shrivastava, Dy. A.G.

For Respondent No.2 : Mr. Bhaskar Payashi, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01.02.2019

Heard

1. This petition is against the framing of charge.
2. Learned counsel for the petitioners submits that the plain reading of the statement would not make out a case as the petitioners were already ready and willing to return the goods, therefore, there is no breach of trust can be inferred. It is submitted that the petitioners were still ready and willing, however, the complainant herself has not turned up; therefore, the charges as framed cannot sustain.
3. Per contra, learned counsel for the respondent No.2 would submit that initially the complainant went to get back the goods, however ,

they were assaulted and subjected to criminal case and reports were made, therefore, there was all apprehension and intention was clear that they want to have undue enrichment of the property by some reason or other.

4. It is a settled proposition as held in case of ***State of Rajasthan v. 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 and he will be at liberty to confront the witnesses with the necessary documents at the stage of evidence when the witnesses are cross-examined.
6. Therefore, in view of the forgoing 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