

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2114 of 2018

1. Rajesh Raman Pathak S/o Rajmani Pathak Aged About 45 Years R/o Rohinipuram, Police Station D.D. Nagar Raipur Chhattisgarh.
 2. Ramesh Sharma S/o Late Shri Ram Sewak Sharma Aged About 50 Years R/o Devendra Nagar D-8, Sector -2, Avanti Vihar Colony Raipur Chhattisgarh.
- Petitioners**

Versus

State of Chhattisgarh through Station House Officer Police Station Khamtarai Civil & Revenue District Raipur Chhattisgarh.

---- Respondent

For the applicant : Mr. Raj Kumar Gupta, Advocate.
For the State : Mr. Aditya Sharma, P.L.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

07.03.2019

1. The present petition is against the order dated 11.04.2018 passed by the First Addl. Sessions Judge Raipur in Criminal Revision No.523 of 2017 whereby the revisional Court has affirmed the order of framing of charges dated 04.10.2017 u/s 420, 467, 468, 471/34 of IPC passed by the JMFC Raipur in Criminal Case No.287/2012.
2. Learned counsel for the petitioner would submit that the allegations of the complainant was that though the petitioners have obtained the false permit on the basis of forged document, however, the said document was not seized from the RTO itself which would lead to show that false averments have been made against the

petitioners. It is submitted that unless and until the document on the basis of which the evidence is created is not seized, the charged cannot be framed.

3. Perused the report made by Dinesh Kumar Sharma, the complainant. A perusal of report would show that he owns a Bus No.C.G.04-E/1527 which was being plied from Raipur to Saraipali on given time of permit and the petitioners have obtained another permit No.392RPR/10 of their Bus No.04-JC/0717 by producing forged certificate of distance from Executive Engineer, National High Way. It is further alleged that after making certain interpolation in communication dated 18.10.2002 by mentioning the name of Ramesh Kumar, the said permit was obtained by committing fraud.
4. The submission of the petitioners at this stage cannot be appreciated qua the complaint made. The statement and report of complainant would show that some prima facie case is made out. The averments of the petitioner would be by way of defence or the grounds available to them, which cannot be gone into while adjudicating the petition u/s 482 of Cr.P.C.
5. The Supreme Court has observed that it is well settled that at the stage of framing of charge, the defence of accused could not be put forth. The acceptance of the contention of learned counsel for the accused would mean permitting the accused to adduce his defence at the stage of framing of charge and for examination thereof at that stage which is against the criminal jurisprudence. Therefore, taking into account the above

position of law, the argument which has been advanced by the learned counsel for the applicant, cannot be accepted as prima facie the Court has to only see whether there is ground to presume that the accused had committed the offence or not ?

6. Therefore, I do not find any merit in the petition warranting interference by this Court in exercise of power under section 482 of Cr.P.C. Accordingly, the petition is premature and is dismissed. The petitioners shall be at liberty to raise all the grounds or the defence available to him during the course of trial.

Sd/-

**GOUTAM BHADURI
JUDGE**