

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1234 of 2018

Pramod Kumar, S/o Shri Rajaram Sharma, aged 59 years, Chief Executive Officer, Zila Antyavasayee Sahakari Vikas Samiti Maryadit, Mahasamund, District Mahasamund, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Station House Officer, Police Station Rajpur, District Balrampur – Ramanujganj, Chhattisgarh

--- Respondent

For Applicant	:	Shri Anurag Dayal Shrivastava, Advocate
For Respondent	:	Shri Alok Nigam, Government Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

30.1.2019

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The instant revision has been preferred against the order dated 18.6.2018 passed by the Special Judge under the Prevention of Corruption Act (henceforth 'the PC Act'), Balrampur at Ramanujganj in Special Criminal Case No.3 of 2017, whereby the Special Judge has framed charges against the present Applicant for an offence punishable under Sections 420, 420 read with Section 420/34, 471 of the Indian Penal Code and Section 13(2) of the PC Act.
3. The Applicant is a Chief Executive Officer and presently posted at

Zila Antyavasayee Sahakari Vikas Samiti Maryadit, Mahasamund. At the relevant point of time, i.e., between the period of 1999 and 2000, he was posted at Ambikapur. At that point of time, the State Government had floated a scheme for grant of loan to the weaker section through implementing agency, i.e., Zila Antyavasayee Sahakari Vikas Samiti Maryadit. Under the said scheme, the Samiti had sanctioned and disbursed the said loan for 1 tractor, 1 jeep and 2 diesel pumps to the beneficiaries. On 28.10.2002, a written complaint was submitted by some of the persons, namely, Ajay, Siyaram, Sameshwar, Shivnath and Jugeshwar contending *inter alia* that the loan under the said scheme was shown to have been sanctioned in their names whereas they had not received the loan amount. They further alleged that Ex-Sarpanch, namely, Vijay Gupta has played fraud by preparing forged documents and by impersonating other persons in the name of Complainants has succeeded in getting the loan. Under the scheme, the loan amount was directly disbursed to the concerned dealers of the articles and, therefore, Vijay Gupta also obtained the articles. On the basis of said complaint, First Information Report was registered against Vijay Gupta on 27.7.2003 for the offence punishable under Section 420 of the Indian Penal Code. On completion of the investigation, when charge-sheet was filed, name of the present Applicant was also included in the charge-sheet as an accused. Vide the impugned order dated 18.6.2018, the Trial Court has framed the charges against the present Applicant. Hence, this revision.

4. Learned Counsel appearing for the Applicant submits that without going through the material as has been brought on record by the prosecution against the Applicant, the charges have been framed

against the Applicant. The Trial Court has apparently failed to appreciate that no such iota of evidence has been brought on record by the prosecution, which could invite framing of such charges against the Applicant. Neither any document is available on record nor any witness has stated anything against the Applicant in their statements recorded under Section 161 of the Code of Criminal Procedure. This is a case of no evidence on record and, therefore, the Applicant ought to have been discharged at this stage itself. In the present case, no document has been relied upon by the prosecution except the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure. In these statements, nothing has come out against the Applicant. Learned Counsel further submits that according to the prosecution, vide seizure memo dated 30.7.2003, some material documents were seized from the possession of Yogendra Singh Mandloi, but, those documents were not submitted by the prosecution along with the charge-sheet. Therefore, at the time of framing of charges, no documentary evidence was available on record. After the framing of charges, an application for obtaining certified copies of said documents were submitted on 17.9.2018, but certified copies of those documents were not provided due to non-availability of the documents on record. Thus, it is clear that on the date of framing of the charges, no document was annexed with the charge-sheet and none of the witnesses whose statements were recorded under Section 161 of the Code of Criminal Procedure has stated anything against the Applicant. Therefore, without there being any material available on record, the charges were framed by the Trial Court. Learned Counsel further submits that after framing of the charges and after preferring of the

instant revision against framing of the charges, the documents which were seized vide the seizure memo dated 30.7.2003 have been submitted by the prosecution before the Trial Court with an application dated 5.12.2018 and vide order dated 31.12.2018 the Trial Court has taken those documents on record. Since presently the documents are available on record, Learned Counsel prays that the present charges framed by the Trial Court against the Applicant may be quashed and after hearing both the parties if any material emerges against the Applicant, the Trial Court may frame charges in accordance with law.

5. Learned Counsel appearing for the State/Respondent supports the impugned order.
6. Having heard Learned Counsel for the parties and having perused the material available, it is clear that at the time of framing of charges against the Applicant, no documentary evidence was available on record against the Applicant. Only the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure were available, but none of the witnesses has stated anything in their statements against the Applicant. Therefore, apparently, the Trial Court has framed the charges against the Applicant without there being any material on record against him.
7. As submitted by Learned Counsel for the Applicant, at present, the documents, which were seized vide the seizure memo dated 30.7.2003, are available on record. Therefore, now, after hearing both the parties, the Trial Court shall consider the material available on record and thereafter frame charges accordingly or

shall pass an appropriate order in accordance with law.

8. Consequently, the impugned order dated 18.6.2018 is set aside and the instant revision is allowed to the extent indicated above.

Sd/-
(Arvind Singh Chandel)
Judge