

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No. 1322 of 2019

- Lavkush Kashyap S/o Seva Ram Kashyap Aged About 48 Years R/o. Village Bhedimuda, Ward No. 8, Ratanpur, District Bilaspur Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Ratanpur, District Bilaspur Chhattisgarh

---- Respondent

For Petitioner : Mr. Ram Narayan Sahu, Advocate.

For State/respondent : Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-10-2019

Heard.

1. This petition has been brought challenging the framing of charge against the petitioner.
2. Learned counsel for the petitioner submitted that the trial Court has framed charges under Section 354,186, 294 and 506 of I.P.C. and Sections 3(1)(10) and 3(1)(B-i)(B-ii) of SC/ST (Prevention of Atrocities) Act. It is submitted that there is no substance present in the charge-sheet to frame charges as aforesaid. There is clear discrepancy in the statement given by the complainant in her written statement, in the F.I.R. lodged and in her statement under Section 161 of Cr.P.C. Therefore, neither of the offence is made out for framing of charge on prima-facie case.
3. The learned counsel for the State opposes of the petition and the submits that there may be discrepancies but there is sufficient material present in the charge-sheet to frame the charges as has been framed

by the trial Court.

4. Heard learned counsel for both the parties and also perused the documents present.
5. On perusal of the copy of charge-sheet filed, it is found that there is substance for framing of charges under Section 354, 294 and 506 of I.P.C. and also under Sections 3(1)(10) and 3(1)(B-i)(B-ii) of SC/ST (Prevention of Atrocities) Act. However, the framing of charge under Section 186 of I.P.C. is in question because it is subject to fulfillment of requirement under Section 195(1) of Cr.P.C., which clearly shows that in case of offence against the public servant in which Section 186 of I.P.C. is included, the Court shall not take cognizance unless the complaint filed by the public servant complains directly to the Court or such complaint is filed by any other officer to whom such complaint is administratively subordinate.
6. On perusal of the charge that it is not found that any such complaint is given by the complainant or by any of the superior authority. Therefore, because of these technicalities, the charge under Section 186 of I.P.C. cannot be sustained. The petition is disposed off at the motion stage. The petitioner is discharged from the charge framed against him under section 186 of I.P.C. However, the order framing charge regarding the rest of the offences which are mentioned hereinabove need no interference.
7. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge