

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.1314 of 2018**

1. Sanis Kumar, son of Firturam Mandal, aged about 44 years, resident of Pankhadafai, Surakachhar, Police Station Bankimongra, District Korba, Chhattisgarh
 2. Ashok Kumar, son of Ammaram, aged about 24 years, Caste Satnami,
 3. Rajesh Kumar, son of Agardas, aged about 24 years,
 4. Shankar, son of Shatruhan, aged about 22 years, Caste Satnami,
 5. Suresh Kumar, son of Chetan, aged about 22 years, Caste Satnami,
 6. Lalit Kumar, son of Saheblal, aged about 23 years, Caste Satnami,
 7. Rajeev, son of Agardas, aged about 23 years, Caste Satnami,
 8. Bhupendra Kumar, son of Sonaubaba, aged about 24 years, Caste Satnami,
 9. Vijay, son of Rathram, aged about 25 years, Caste Satnami,
- No.2 to 9 are residents of Jethudafai, Police Station Bankimongra, District Korba, Chhattisgarh

---- Applicants**versus**

1. Ramanand Soni, aged about 38 years, son of Jagdish Soni, resident of Ratakhar, Ward No.2, Post Korba, Tahsil and District Korba, Chhattisgarh
2. Vimla Soni, aged about 29 years, wife of Ramanand Soni, resident of Ratakhar, Ward No.2, Post Korba, Tahsil and District Korba, Chhattisgarh

--- Respondents

For Applicants	:	Shri Anil Tripathi, Advocate
For Respondents	:	None

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****11.1.2019**

1. Heard on admission.
2. The instant revision has been preferred against the orders dated 4.9.2018 and 12.9.2018 passed in Sessions Trial No.54 of 2018, whereby the Additional Judge to the Court of Additional Sessions

Judge, Katghora made charges against the present Applicants under Sections 436, 506 Part II, 294, 451, 323, 324, 427, 147 and 149 of the Indian Penal Code.

3. Facts of the case, in brief, are that both the Respondents/Complainants moved a private complaint under Section 200 of the Code of Criminal Procedure before the Judicial Magistrate First Class, Katghora, District Korba for the alleged offence under Sections 147, 148, 149, 294, 323, 506B, 427, 436, 34 of the Indian Penal Code against the Applicants. The Judicial Magistrate First Class recorded statements of the Complainants and their witnesses under Sections 200 and 202 of the Code of Criminal Procedure and thereafter registered a case against the Applicants and summoned the Applicants and thereafter also recorded evidence before framing of the charges. Thereafter on 9.7.2018, the Judicial Magistrate First Class heard arguments on behalf of the Applicants before framing of the charges. The Judicial Magistrate First Class found that on the basis of evidence adduced by the Complainants before framing of the charges, *prima facie*, charges under Sections 147, 148, 149, 294, 323, 506 Part II, 435, 436 of the Indian Penal Code are made out. Since the offence under Section 436 of the Indian Penal Code is exclusively triable by the Court of Session, vide order dated 9.7.2018, the Judicial Magistrate First Class committed the case to the Court of Session. The Court of Session, after hearing the parties, vide the impugned orders dated 4.9.2018 and 12.9.2018, framed the charges against the Applicants as mentioned in the first paragraph of this order.

4. Learned Counsel appearing for the Applicants submits that at the time of submitting private complaint under Section 200 of the Code of Criminal Procedure, as ordered by the Judicial Magistrate First Class, an inquiry report dated 27.9.2011 had been submitted before the Judicial Magistrate First Class along with the statements of witnesses recorded by the police. In the said inquiry report, it was found that the house of the Complainants, which had been broken, was constructed by them by making encroachment over government land. It is further submitted by Learned Counsel that there are material contradictions in the statements recorded in the inquiry made by the police against the Applicants and the statements of the Complainants and their witnesses recorded by the Judicial Magistrate First Class under Sections 200 and 202 of the Code of Criminal Procedure and also in the statements of the Complainants recorded before framing of the charges. Therefore, the entire incident is suspicious and on the basis of the evidence on record, no *prima facie* case is made out against any of the Applicants. Thus, the impugned orders passed by the Court of Session are perverse, erroneous and are liable to be set aside.
5. From perusal of the material available, it is clear that though there are some contradictions in the statements recorded, the statements recorded by the Judicial Magistrate First Class under Sections 200 and 202 of the Code of Criminal Procedure and the statements of witnesses recorded by the Judicial Magistrate First Class before framing of the charges were recorded by him after administering oath of the witnesses and on the basis of said statements, earlier private complaint has been registered by the Judicial Magistrate First Class and after committal, the Court of

Session framed the charges. It is also clear that there are sufficient material available for framing of the charges against the Applicants. Therefore, the Court of Session has rightly framed the charges against the Applicants.

6. I find no merit in the instant revision. It is, therefore, dismissed.

Sd/-

(Arvind Singh Chandel)
Judge