

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 82 of 2020

- Moblis Ansari, S/o Kyamuddin Ansari, Aged About 34 Years, R/o Ward No. 7, Village-Gidha, Post-Sangrahekala, P.S. Gadwa, District-Gadwa, Jharkhand.

---- Applicant

Versus

1. State of Chhattisgarh Through The Station House Officer, P.S. Kusmunda, District-Korba, Chhattisgarh.....Complainant.
2. Ajay Gupta, S/o Santosh Gupta, Aged About 34 Years, R/o Hardibazar, P.S. Kusmunda, District-Korba, Chhattisgarh....Complainant.

---- Respondents

For Applicants : Mr. Suresh Verma, Advocate.
For Respondent No.1/State: Mr. Avinash K. Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/02/2020

Heard.

1. The petition has been brought challenging the order framing charge dated 16.12.2019. It is submitted that earlier the learned trial Court has framed charge under Section 308 of IPC and in the alternative under Section 304 of IPC on 4.3.2017. However, after commencement of trial the learned trial Court has without assigning any specific reason has altered the charge on 16.12.2019 and charged the applicant with the offence under Sections 304 & 308 of IPC.
2. It is submitted that there is no evidence present in the whole charge-sheet to make out a case under Section 304 of IPC and it is admitted by the witnesses, that the deceased Subhi had died by getting crushed by the rear wheel of the Trailer which the applicant was driving, therefore, the applicant never had any knowledge or intention with regard to that incident, hence, the amendment of charge made by the trial Court is erroneous and liable to be set aside.

3. Learned counsel opposes the petition and the submissions made in this respect. It is submitted that the learned trial Court has altered the charge on the basis of the material that is present in the charge-sheet itself. The complainant and the eyewitness has very clearly stated, that the applicant deliberately turned the vehicle in his direction knowing well that the complainant and his daughters may get crushed in the rear wheel of the vehicle, therefore, it is not a case of discharge.
4. I have heard both the parties and perused the documents on record.
5. After perusing the material present in the charge-sheet and finding that the material present shows that the statement of the complainant Ajay Gupta has relevance and that is the basis of the charge against the applicant, therefore, at this stage, it is not substantiated from this evidence that it may be a case of 304A of IPC only, hence, the alteration of charge-sheet made by the trial Court is correct and proper and in accordance with law which needs no interference.
6. Accordingly, the petition is disposed off. The trial Court is directed to expedite and conclude the trial as soon as possible.

Sd/-

(Rajendra Chandra Singh Samant)
Judge