

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1280 of 2019

1. Kalyan Sande, S/o Uday Ram, Aged About 52 Years, R/o Village-Bohardih, PS-Gidhpuri, Balodabazaar, District-Balodabazaar-Bhatapara, Chhattisgarh.
2. Rupesh, S/o Kalyan Sande, Aged About 19 Years, R/o Village-Bohardih, Ps-Gidhpuri, Balodabazaar, District-Balodabazaar-Bhatapara, Chhattisgarh.
3. Kriparam, S/o Uday Ram, Aged About 63 Years, R/o Village- Bohardih, Ps-Gidhpuri, Balodabazaar, District- Balodabazaar-Bhatapara, Chhattisgarh.
4. Uttara, S/o Kriparam, Aged About 30 Years, R/o Village- Bohardih, Ps-Gidhpuri, Balodabazaar, District-Balodabazaar-Bhatapara, Chhattisgarh.
5. Ghanshyam, S/o Ram Khilawan, Aged About 32 Years, R/o Village-Bohardih, Ps- Gidhpuri, Balodabazaar, District-Balodabazaar-Bhatapara, Chhattisgarh.
6. Dev Prasad, S/o Kaliram, Aged About 42 Years, R/o Village- Bohardih, Ps-Gidhpuri, Balodabazaar, District-Balodabazaar-Bhatapara, Chhattisgarh.
7. Nanhu Ram, S/o Bhojram, Aged About 31 Years, R/o Village-Bohardih, Ps-Gidhpuri, Balodabazaar District-Balodabazaar-Bhatapara, Chhattisgarh.
8. Rajendra S/o Kriparam Aged About 35 Years R/o Village- Bohardih, Ps-Gidhpuri, Balodabazaar District-Balodabazaar-Bhatapara, Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh Through- Station House Officer P.S. Gidhpuri, District- Balodabazaar-Bhatapara, Chhattisgarh.

---- Respondent

For applicants	:	Mr. Anchal Kumar Matre, Advocate.
For Respondent	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

23/01/2020

Heard.

1. This revision petition has been brought being aggrieved by the order dated 26.8.2019 passed by the learned 3rd Additional Sessions Judge, Balodabazar, Chhattisgarh, thereby framing charge against the applicants.
2. At the outset, learned counsel for the applicants submits that the applicants wish to press this revision only against the framing of charge under Section 307 read with 149 of IPC.
3. It is submitted that there is not a single evidence present in the charge-sheet which may *prima facie* make out a case for framing of a charge under Section 307/149 of IPC against the applicants. According to the charge framed, the applicants with intention to cause death of Sukaro Bai assaulted her with clubs and caused injuries on her head & waist. Perusal of the medical report available in the charge-sheet would show that there is no such opinion of the doctor that the injury caused to Sukaro Bai was fatal in nature. Apart from that, she was discharged from the hospital only after 8 to 9 days of the incident. Main allegation against the applicants is that after forming an unlawful assembly, they had assaulted the complainant & others. Thus, the circumstances of the case and evidence on record do not show in any manner that the applicant had any intention to cause death of any person injured. Hence, the applicants are entitled for discharge from the charge under Section 307/149 of IPC. In support of the aforesaid submissions, reliance is placed on the judgment of *Champa Lal Dhakar v. Naval Singh Rajput*, reported in 2019(1) CCSC 203(SC).
4. Learned State counsel opposes the submissions and submits that there are ample evidence in the charge-sheet for making out a *prima facie* case against the applicants for framing of charge under Section 307/149 of IPC. The trial Court has not committed any error in passing the order impugned which requires interference by this Court while

exercising revisional jurisdiction.

5. I have heard both the parties and perused the documents on record.
6. On perusal of copy of charge-sheet filed along with the petition, it is found that the witnesses in their statements recorded under Section 161 of CrPC by the police, have very clearly stated that the applicants had intended to cause death of the persons to whom they have assaulted. Although there is no such mention in the injury report of Sukaro Bai that she had suffered any fatal injury, but there is no such requirement under Section 307 of IPC that an injury should be caused in an attempt to cause death of any person. The categorical statement of the witnesses recorded in the course of investigation, that the applicants had assaulted the complainant and others with intention to cause their death can be considered then accepted or rejected only in the course of trial, at the present stage that statement cannot be discarded or disbelieved. Hence, I am of this view that the learned trial Court has not committed any error in passing the impugned order framing charges against the applicants. The revision petition being without any substance is liable to be dismissed and is hereby dismissed at motion stage itself.

Sd/-

(Rajendra Chandra Singh Samant)
Judge