

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Proceedings through Video Conferencing****CRIMINAL REVISION No. 201/2021**

Kamal Parwani, son of Late Vijay Kumar Parwani, aged about 40 years, R/o. F-4, Ralas Enclave, near Gayatri Hospital, Rohinipuram, Daganiya, Raipur, Distt. Raipur (CG)

**----Applicant****Versus**

State of Chhattisgarh, through the Station House Officer, Police Station DD Nagar, Distt. Raipur (CG)

**----Non-applicant**

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 For Applicant : Mr. Vaibhav P. Shukla, Adv.  
 For respondent/State : Mr. Dinesh Tiwari, Dy. Govt. Adv.  
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**Hon'ble Shri Justice N.K. Chandravanshi****Order on Board****20-7-2021**

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 18-1-2021 passed by the Special Judge, Atrocities, Raipur by which charge has been framed against the applicant under Sections 354, 294, 323 of the Indian Penal Code (in short 'I.P.C.'), Section 3(1)(w)(i) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'SCST Act').

2. It is submitted by learned counsel for the applicant that the impugned order has been erroneously passed by the trial Court, the contents of written FIR, statements of prosecutrix and her husband and their supplementary statements recorded by the police, statement of prosecutrix recorded under Section 164 of the Code of Criminal Procedure (in short 'Cr.P.C.') show that the complainant and her husband did not know the applicant and co-accused, but later on, to make a false case against the applicant, police has taken supplementary statements of the complainant and her husband. He further submits that from the evidence collected by police, essential ingredients for the offence under Section 354 of the I.P.C. are absent, and also alleged incident was taken place at night where no independent witnesses or

other persons were there, therefore, ingredients of alleged offence of SCST Act are also not fulfilled but, learned trial Court without appreciating the material facts has framed charges against the applicant which is erroneous and bad in law, therefore, liable to be set aside.

3. On the other hand, learned State counsel submits that the applicant and co-accused were known to the complainant and her husband, written complaint which was filed within one and half hour at the police station was against the applicant and co-accused by naming them and with vehicle's registration number used by them. He further submits that the complainant and her husband have also stated name of the applicant and co-accused and as per their supplementary statements, they knew each other, therefore, all ingredients are available to frame charges against the applicant and learned trial Court has not committed any error by framing alleged charges against the applicant.

4. I have heard learned counsel for both the parties and perused the material available on record.

5. Complainant filed written complaint naming applicant and co-accused and also mentioned their vehicle's registration number after sometimes of the incident. The complainant and her husband in their police statement and prosecutrix in her statement recorded under Section 164 of the Cr.P.C., have stated the name of the applicant and co-accused who have committed alleged crime against them. Although, in afore-stated statements, they have not clearly stated that they and applicant were well known to each other but in supplementary statement they have stated that they were well known to each other. If they were not known to each other before the incident, and complainant and her husband have later on stated in their supplementary statement that they were known to each other, then it is the matter of evidence that whether actually they were known to each other before the incident or not, which can be

tested during examination in the Court, before that, it cannot be ascertained as to which of the statements is true and which is false.

6. Complainant and her husband have clearly stated in their statements that the applicant and co-accused chased them and stopped their car before their scooty near the hospital situated at Gol Chowk, DD Nagar, Raipur where they assaulted them holding the hands of complainant, forced her to sit in their car, also abused them. Of course, the incident took place at night at about 12.30 am but whether some persons were present there or not, is a matter of evidence. Only on the ground that police has not recorded statements of such persons cannot establish at this stage that nobody was present there at the time of incident.

7. The Hon'ble Supreme Court in **Bhawna Bai -v- Ghanshyam and others** [2020 (2) SCC 217], has held that :-

“13. .... At the time of framing the charges, only prima facie case is to be seen; whether case is beyond reasonable doubt, is not to be seen at this stage. At the stage of framing the charge, the court has to see if there is sufficient ground for proceeding against the accused. While evaluating the materials, strict standard of proof is not required; only prima facie case against the accused is to be seen.”

8. It is well settled proposition of law that at the stage of framing of charge, even a very strong suspicion founded upon the material present in the charge sheet would be sufficient ground for framing of charge. In this case, police statements of prosecutrix and her husband and also statement of prosecutrix recorded under Section 164 of the Cr.P.C. and written complaint, fulfilled the essential ingredients for framing of charges which has been framed against the applicant. If there is any falsehood of identity of both the accused persons, and also non-appearance of other persons at the time of incident, are subject matter of

trial. Hence, this Court is of the view that learned trial Court has not committed any error in framing alleged charges against the applicant.

9. Hence, instant revision petition being devoid of merit deserves to be and is hereby dismissed.

**Sd/-**

**N.K. Chandravanshi  
Judge**

Pathak/-