

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 455 of 2021**

- Dubraj Chouhan Late Aghanu Ram Chouhan Aged About 45 Years R/o Village- Ghoriya, Bartoli, Police Station- Narayanpur, District- Jashpur, Chhattisgarh.

---- Petitioner**Versus**

- State of Chhattisgarh, Through : The District Magistrate, Jashpur, District- Jashpur, Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Jitendra Kumar Saxena, Adv.
For Respondent/State	:	Mr. Ishwar Jaiswal, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****08/12/2021**

1. This petition is filed under Section 482 of Cr.P.C. against the judgment/order dated 18.03.2021 passed by the learned Sessions Judge, Jashpur, District-Jashpur (C.G.) in Criminal Revision No. 01/2021, arising out of order dated 18.02.2021 passed in Criminal Case No. 279/2020 by the learned Judicial Magistrate First Class, Bagicha, District-Jashpur (C.G.) whereby the learned trial Court has framed charges under Section 294, 506-B, 324, 326 of IPC and Section 25 & 27 of Arms Act against the petitioner.

2. Learned Counsel for the petitioner submits that impugned order is bad in law, perverse and erroneous. In this case, the injured has not received any grievous injury except bone fracture, therefore the offence under Section 326 of IPC is not attracted. It is clear that no deadly weapon or sword was used by the petitioner and one *Dauli* (like sword) has been recovered which is not a weapon. He next submits that the injuries sustained by the complainant were simple in nature and got cured within few days. He also submits that prima facie charge under Section 326 of IPC is not made out against the petitioner. He filed revision against the

order of the Magistrate before the Sessions Court but the learned Sessions court has dismissed the revision petition No. 01/2021 vide order dated 18.03.2021. Hence, this petition filed by the petitioner for setting aside the order dated 18.02.2021 and discharge the petitioner of the charge under Section 326 of IPC in the interest of justice.

3. Learned counsel for the State supported the impugned judgment.

4. Heard learned counsel for the parties and perused the material on record including the impugned order.

5. Main objection of the petitioner is that the complainant has not received any grievous hurt and no deadly weapon was used by the petitioner. Grievous hurt described under Section 320 of IPC which reads as under :-

320. Grievous hurt. - The following kinds of hurt only are designated as "grievous" :-

First. - Emasculation.

Secondly. - Permanent privation of the sight of either eye.

Thirdly. - Permanent privation of the hearing of either ear.

Fourthly. - Privation of any member or joint.

Fifthly. - Destruction or permanent impairing of the powers of any member or joint.

Sixthly. - Permanent disfiguration of the head or face.

Seventhly. - Fracture or dislocation of a bone or tooth.

Eighthly. - Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

And Section 326 of IPC reads as under :-

326. Voluntarily causing grievous hurt by dangerous

weapons or means. - Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to

receive into the blood, or by means of any animal, shall be punished with ¹[imprisonment for life], or with imprisonment or either description for a term which may extend to ten years, and shall also be liable to fine.

6. It is clear from Section 320 (Point Seven) that if **“Fracture or dislocation of a bone or tooth”** occurred the case will come under grievous hurt. Petitioner has also filed MLC Bed Head Ticket of the victim which shows that he received fracture on left hand ulna which is described under Section 320 of IPC. As per Section 326 when grievous hurt is caused by means of any instrument for stabbing, shooting or cutting or any instrument which is used as a weapon of offence, and in the present case *Dauli* sword like weapon has been seized vide Ex.-P/3. Therefore, prima facie, learned Judicial Magistrate has framed charge under Section 326 of IPC against the petitioner which is in accordance with law and is in accordance with material available on record. Learned Sessions Court has dismissed the revision of the petitioner in accordance with law. Therefore, the orders of learned trial Court and Revisional Court are just and proper to frame charge under Section 326 of IPC against the accused in accordance with law.

7. Consequently, I do not find any ground for interference in exercise of inherent jurisdiction. The petition is, therefore, liable to be dismissed and it is hereby dismissed.

**Sd/-
(Rajani Dubey)
JUDGE**

¹ Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f. 1.1.1956).