

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****CRIMINAL REVISION No. 308/2021**

Kiran Nirala wife of Kamal Kumar Nirala, aged about 31 years, R/o. Barpali, Thana Gidhauri, Distt. Balouda Bazar- Bhatapara (CG)

----Applicant

Versus

State of Chhattisgarh, through Police Station Civil Lines, Raipur, Distt. Raipur (CG)

----Non-applicant

For Applicant : Mr. A.K. Yadav, Adv.

For respondent/State : Mr. Dinesh Tiwari, Dy. Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****28-7-2021**

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 4-3-2021 passed by the 12th Addl. Sessions Judge, Raipur by which charges have been framed against the applicant under Sections 411 and 413 of the Indian Penal Code, 1860 (in short 'I.P.C.').

2. Brief facts of the case are that complainant Anshay Sahgal is doing business of selling of truck tyres. Name of his firm is M/s. R.N. Sehgal. His office is situated at Katora Talab Chouk, Raipur. Main accused of this case Kamal Kumar Nirala (Now he has died) was working as Manager of the complainant. He was husband of present applicant. 285 nos. of tyres were stolen by Kamal Kumar Nirala from the office and godown of the complainant. Kamal Kumar Nirala made three firms, one in his own name, one in the name of his wife (present applicant) and one in the name of one Durgesh Tiwari. Names of the firms are Maa Ambe Traders, Maa Laxmi Traders and Maa Gauri Traders, respectively. Kamal Kumar Nirala in association with the applicant sold said stolen truck tyres to different persons by making false bills/vouchers. On the basis of memorandum, number of tyres have been seized by the police, 145 nos. of tyres have been seized from Bhola Agrawal, certain receipts have been seized on the basis of memorandum statement of the applicant, which were issued by Maa Laxmi Traders, whose proprietor is said to be applicant. After investigation, police have

filed charge sheet under Sections 381, 411 and 413 of the I.P.C. against the applicant and others.

3. It is submitted by learned counsel for the applicant that the impugned order has been erroneously passed by the trial Court. He further submits that in the evidence collected by the police, essential ingredients of Section 413 of the I.P.C. are absent. The name of the applicant was initially not mentioned in the FIR, after one and half month of the incident, she has been implicated in the offence as co-accused. The offence, if any, committed, it is committed by her husband who has died due to Covid 19 disease. Therefore, offence under Section 411 of the I.P.C. is also not made out against the applicant. 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.

4. On the other hand, learned State counsel submits that all ingredients of Section 411 and 413 of the I.P.C. are available to frame charges against the applicant and learned trial Court has not committed any error by framing alleged charges against the applicant. He places reliance on a decision of Hon'ble Supreme Court in the matter of **Tej Bir v. State of Haryana** [(2011) 11 SCC 556], in para 8 of which it has been held that :-

“8. It is well settled that at the stage of framing of charges the High Court should not exercise its power of revision by way of quashing the charges by confining its attention only to the recitals in the FIR. An FIR can never represent the entire evidence of the case.”

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

6. The material available, especially the memorandum statement of applicant and seizure memo which was prepared on the basis of her memorandum statement, show that the applicant was doing business of selling tyres by making firm Maa Laxmi Traders. The applicant is alleged to be proprietor of above firm and knowingly she was involved with her husband in selling of stolen

tyres. Seizure memo shows that the seized bills were issued by Maa Laxmi Traders in the name of different persons. Statements of Ajay Kumar Mishra, Gulam Mohammad and Durgesh Tiwari recorded under Section 161 of the Cr.P.C. also support the charges framed against the applicant. The material available on record, which has been filed by the applicant with revision petition, prima facie shows the ingredients of Section 411, 413 of the I.P.C. against the applicant.

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, the material available fulfilled the essential ingredients for framing of charges which have been framed against the applicant. Hence, in view of the material available on record and in the light of the judgments of Hon'ble Supreme Court in the matter of **Bhawna Bai** (supra) and **Tej Bir** (supra), 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