

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.R. No. 600 of 2021**

Jhamman Sahu @ Chhamman Sahu S/o Ghasi Sahu aged about 56 Years R/o Village Amora, District Bemetara CG (Age wrongly mentioned in Ann. A/1).

----Applicant

Versus

State of Chhattisgarh, through District Magistrate, Bemetara CG

----Non-applicant

 For Applicant : Mr. Rajkumar Pali, Adv.
 For respondent : Mr. Devesh Verma, Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****29-9-2021**

1. This criminal revision has been preferred by the applicant against the order dated 10-8-2021 passed in Sessions Case (FTC) No. 52/2021 by the Addl. Sessions Judge, Bemetara, Distt. Bemetara (CG) by which charges have been framed against the applicant under Sections 450, 376(2)(n) and 506-II of the Indian Penal Code, 1860 (in short 'I.P.C.').

2. Brief facts of the case are that victim/prosecutrix filed a written complaint on 8-6-2021 in PS Bemetara against the applicant that in the month of June, 2020 when she was sleeping at night in her home, then at about 9.00 pm applicant who is her neighbour, entered in her house and committed rape with her and threatened to kill her if she discloses about rape to anyone. Thereafter, the applicant committed rape with her till January, 2021 repeatedly, consequently she became 5 months' pregnant due to rape committed by the applicant. Thereafter, the applicant did not make relation with her. On 8-6-2021, she filed written complaint against the applicant in this regard. After investigation, police of PS Bemetara filed charge sheet under Section 450, 376(2)(n) and 506 of the IPC, and after considering the materials available in the charge sheet, learned trial Court framed charges against the applicant as stated above. Hence, this revision.

3. Learned counsel for the applicant submits that the applicant is an innocent person. He has not committed alleged offence with the victim/prosecutrix. She had relation with some other person and when she conceived, then she filed alleged report against the applicant, because he is her neighbour. Necessary ingredients for framing alleged charges against the applicant are not available on record, therefore, the order impugned and framing of charge against the applicant is perverse, illegal and not sustainable.

4. Per contra, learned State counsel opposes the submissions made by learned counsel for the applicant, submitting that learned trial Court has not committed any error in framing alleged charges, because all necessary ingredients are available on record against the applicant, therefore, the impugned order does not call for any interference of this Court.

5. I have heard learned counsel for both the parties and perused the copy of charge sheet filed by the applicant along with the memo of revision.

6. On perusal of the charge sheet, it is clear that the victim/prosecutrix has filed written complaint against the applicant naming him that he entered into her house when she was sleeping and committed rape with her in or about June, 2021 and threatened to kill her if she discloses about rape to anyone. Thereafter, till January, 2021, he repeatedly committed rape with her, as a result of which, she conceived. Her medical report dated 8-6-2021 also supports that she was found pregnant at the time of medical examination. Victim/prosecutrix has also stated aforesaid facts in her statement recorded under Section 161 of the Cr.P.C. and also in her statement recorded under Section 164 of the Cr.P.C. She has also stated that the applicant used to threaten her and therefore, earlier she did not disclose in this regard to anybody. But later on, she disclosed the fact to other witnesses, which they have supported in their statements recorded under Section 161 of the Cr.P.C.

7. In the case of **M.E. Shivalingamurthy v. Central Bureau of Investigation, Bengaluru** [(2020) 2 SCC 768], **Krishan Chand -v- State of Haryana** [2013(2) SCC 502], **Bhawna Bai -v- Ghanshyam and others** [2020(2) SCC 217], **Amit Kapoor -v- Ramesh Chander and others** [2012(9) SCC 460] and in many other cases, Hon'ble Supreme Court has settled the law that at the stage of framing of charge the trial Court is not to examine meticulously and assess in detail the materials placed on record by the prosecution nor it is for the court to consider the probative value of the material or to consider its sufficiency to establish the offence alleged against the accused person. At this stage of charge the court is to examine the materials only with a view to be satisfied that a *prima facie* case of commission of offence alleged has been made out against the accused person. The accused can only rely on the materials which are produced by the prosecution at this stage. No doubt, grave suspicion or strong suspicion available on the record could be explained away by the accused but if it is not properly explained and the judge considers that accused might have committed offence and there is sufficient ground for proceedings against him, then framing of charges against the accused is justified.

8. In the present case, as has been stated above, not only in written FIR but also in the statements recorded under Section 161 and 164 of the Cr.P.C., the victim/prosecutrix has clearly stated naming the applicant that in the month of June, 2020 at night, when she was sleeping in her house, the applicant entered into her house and committed rape with her and thereafter, till January, 2021, he repeatedly committed rape with her. Therefore, she has got 5 months' pregnancy, which is well corroborated by medical document and since the applicant had threatened to kill her if she discloses this fact to anybody, therefore, earlier she did not disclose these facts to anybody. But later on, she disclosed the fact to other witnesses, which they have supported in their statements recorded under Section 161 of the Cr.P.C. These facts show that all necessary ingredients are available in the charge sheet to frame

alleged charges against the applicant. In view of above, I do not find any infirmity or illegality in framing aforesaid charges against the applicant.

9. Consequently, the revision fails and is dismissed.

Sd/-
N.K. Chandravanshi
Judge

Pathak/-