



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 742 of 2023

- Ashok Kumar Verma S/o Bare Lal Verma, Aged About 38 Years R/o village Chicha, P.S. Bori, Dist. Durg, C.G.

-----Petitioner

VERSUS

- State of Chhattisgarh through P.S. Golbazar, District Raipur, Chhattisgarh

-----Respondent

(cause title is taken from Case Information System)

For Petitioner : Mr. Rajesh Jain, Advocate

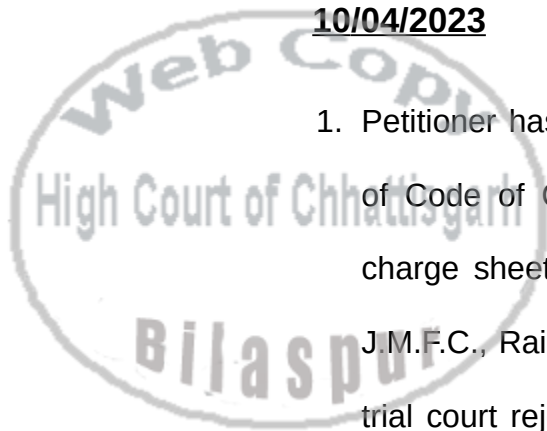
For Respondent-State : Mr. Vimlesh Bajpai, Govt. Advocate

Single Bench: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER

10/04/2023

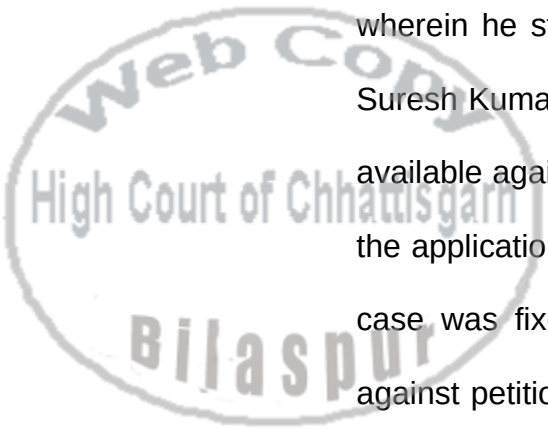
1. Petitioner has filed this petition invoking jurisdiction under Section 482 of Code of Criminal Procedure seeking relief of setting aside entire charge sheet of criminal case No. 7182/2017 pending in the court of J.M.F.C., Raipur and also the order dated 26.09.2022 whereby learned trial court rejected the application under Section 239 of CrPC filed by petitioner.
2. Learned counsel for petitioner submits that the police based on the report of Chief Executive Officer (CEO), Jila Panchayat, Raipur, registered the crime bearing No. 76/2017 for offence punishable under Sections 420, 468, 471 of IPC. After completion of investigation, police submitted charge sheet/ final report before the court of competent jurisdiction. As in the entire charge sheet there is no specific material connecting petitioner in the aforementioned offence mentioned in the charge sheet, filed an application under Section 239 of CrPC for discharging the petitioner from the offence as mentioned in the final report. Trial court without considering the submission of learned counsel for applicant therein and the material available in the charge





sheet rejected the application. He contended that the only material which is available in the charge sheet is the memorandum statement of petitioner as also co-accused which is not the admissible piece of evidence, hence the trial against petitioner would be abuse of process of law.

3. Learned State counsel opposes the submission of learned counsel for petitioner and would submit that based on the report lodged by the CEO, Jila Panchayat, Raipur of submission of forged Degree/certificate, upon investigation police recorded submission of witnesses as also the accused persons and all the accused persons in their memorandum statement have categorically stated about their involvement. He read out the memorandum statement of petitioner wherein he stated that the amount of ₹ 50,000/- was given to him by Suresh Kumar, one of the accused, hence there is *prima facie* material available against petitioner. He also pointed out that the order rejecting the application under Section 239 of CrPC is dated 26.09.2022 and the case was fixed for next hearing on 29.10.2022 for framing charges against petitioner, however subsequent order sheet (s) till date has not been filed. The charges might have been framed against petitioner and therefore also no relief as claimed can be granted.
4. At this stage, learned counsel for petitioner submits that as per his instructions, till date charges have not been framed against petitioner.
5. I have heard counsel for parties and also perused the documents placed on record.
6. Perusal of F.I.R. would show that the report is lodged by the CEO, Jila Panchayat, Raipur making allegation that upon verification of documents placed on record by Suresh Kumar S/o Ghasiya Singh from Guru Ghasidas University, Bilaspur it was informed that the certificate of B.Lib & ISC. was found to be forged. Based on the report, F.I.R. was registered and during the course of investigation, statement of





witnesses were recorded. In the statement of Neeru Manikpuri name of petitioner is also mentioned to be the person involved in commission of alleged offence. Memorandum statement of co-accused Suresh Kumar is available wherein specific allegations have been made against petitioner and also stated that he handed over ₹ 50,000/- along with other documents to present applicant. In the memorandum statement of applicant also he accepted that the beneficiary of documents co-accused Suresh Kumar handed him the certificate and other educational qualification besides ₹ 50,000/-. The charge sheet is filed for offence under Section 420, 468, 471, 120B, 201 of IPC.

7. Considering the entirety of the material available in the charge sheet, I do not find any error in the order passed by learned trial court. The police based on the material collected submitted charge sheet against the accused persons finding *prima facie* case against them. According to the decision in case of ***State by the Inspector of Police vs. S. Selvi*** reported in **AIR 2018 SC 81**, at the time of considering whether there is material available against accused persons or not the court has to proceed with presumption that the material brought on record by prosecution are true and has to evaluate with a view to find out whether facts disclose existence of ingredients of offence. At this stage correctness of the allegation is not a consideration, but it is to be looked into whether there is material to proceed.
8. From the documents available on record and the discussion, I do not find any error in the impugned order and no relief as prayed for can be granted to petitioner.
9. Accordingly, the petition being sans merit is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge