



2026:CGHC:10208

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 513 of 2024

1 - Shiv Prasad Chhadimadi S/o Late Mahesh Prasad Chhadimadi, Aged About 52 Years, R/o Qt. No. B-256, Adarsh Nagar, Kusmunda, Tehsil- Katghora, District- Korba, Chhattisgarh. Currently Residing in Q.No. B/36, C.I.T.I. Colony, Near Head Quarter of N.C.L. Singrauli, P.S. Singrauli, District- Singrauli, Madhya Pradesh, Pin 486889

... Petitioner

versus

1 - State of Chhattisgarh Through Police Station- Kusmunda, District- Korba, Chhattisgarh.

2 - Smt. Gomti Chhadimadi W/o Shiv Prasad Chhadimadi, Aged About 40 Years, R/o Qt. No. B-256, Adarsh Nagar, Kusmunda, P.S.- Kusmunda, Tehsil- Katghora, District- Korba, Chhattisgarh.

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Avinash Chand Sahu, Advocate.
For State	: Mr. N.K. Jaiswal, Deputy Govt. Advocate.
For Respondent No.2	None.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha , Chief Justice

27.02.2026

1. The petitioner has made following prayer in the present writ petition:-

“It is therefore, respectfully prayed that this Hon’ble Court may kindly be pleased to set-aside the impugned order dated 18/01/2023 of framing of charge u/s 377 of IPC, passed by the learned JMFC, Katghora, Distt- Korba (C.G.) passed in criminal case number 2812/2022, and discharge the petitioner in the interest of justice.

2. The respondent No.2, wife of the petitioner has lodged written report against the petitioner to the effect that she got married to the petitioner on 17.06.2003 and out of the said wedlock, she has 2 sons. She alleged in her report that after some time of marriage she was continuously subjected to unnatural intercourse by the petitioner. On the said report of respondent No.2 police registered FIR on 20.10.2022 bearing Crime No. 521 of 2022, registered at Police Station Kusmunda, District Korba for the offence under Section 377 of IPC. After due investigation, the charge sheet has been filed against the petitioner for the offence under Sections 377 of IPC and Criminal Case No. 2812/2022 is pending before the learned Judicial Magistrate First Class, Katghora wherein charge has been framed against the petitioner on 18.01.2023 under Section 377 of the IPC which has been under challenge in the present petition.
3. Learned counsel for the petitioner would submit that the very initiation of the FIR against the present petitioner by the complainant-wife is nothing but malicious prosecution thereby grossly misusing the rights enumerated by the criminal justice

system to the needy but the complainant is using the said provisions of law to arm-twist the petitioner to take back his judicial separation case instituted by him against the complainant. He would further submit that the complainant has maliciously and falsely implicated him under Section 377 IPC after failing to secure his arrest under Section 498-A IPC, in which a separate FIR had already been lodged against him and his family members. Notably, the earlier FIR under Section 498-A IPC contains no allegation whatsoever under Section 377 IPC, clearly indicating that the present allegations have been introduced subsequently with ulterior motive. It is further submitted that the complainant has also lodged another FIR accusing the petitioner and his brother of committing theft in his own house, which is inherently absurd and demonstrates her vindictive and revengeful intent. Additionally, the allegations under Section 377 IPC are claimed to have occurred between 2003 and 2022, reflecting an unexplained delay of nearly two decades in lodging the complaint. Despite such inordinate delay, the police mechanically proceeded with the investigation. The statement under Section 161 CrPC and the MLC do not disclose any incriminating material against the petitioner, further indicating that the allegations are baseless and motivated. It has been further argued that the false rape allegation has caused serious harm to his reputation and employment of the petitioner and is a counterblast intended to pressure him into withdrawing his judicial separation petition. The Hon'ble Supreme Court has

recognized that false rape accusations cause grave humiliation to the accused. It is further contended that the Trial Court failed to consider that under the amended Section 375 IPC, the alleged act falls within its ambit, and Exception 2 excludes sexual acts between a husband and wife from the definition of rape. Hence, the charge under Section 377 IPC is unsustainable.

4. Learned counsel appearing for the State opposes the petition and submits that the FIR in question was registered on the basis of a written complaint made by the complainant alleging unnatural intercourse and commission of cognizable offence by the petitioner. It is submitted that upon receipt of the complaint, the police conducted investigation in accordance with law and, after recording statements of the complainant and other witnesses and collecting relevant material, found a prima facie case to be made out against the petitioner. Consequently, the charge-sheet was filed before the learned Judicial Magistrate First Class, Katghora, District Korba (C.G.). Learned State counsel would further submit that the allegations levelled in the FIR and the charge-sheet disclose the commission of cognizable offences under Section 377 of the IPC, which require appreciation of evidence and determination of disputed questions of fact, and the same cannot be adjudicated in proceedings under Section 482 Cr.P.C. It is further submitted that the defence raised by the petitioner is matter of evidence which may be examined by the trial Court during trial and do not, by themselves, constitute a ground for quashment of

the criminal proceedings at the threshold. Therefore, the petition filed by the petitioners is liable to be dismissed.

5. We have heard learned counsel for the parties and perused the documents annexed with the petition.
6. The allegation against the petitioner is of unnatural offence. At this stage it cannot be said that such allegation has been made without any basis. Upon consideration of the rival submissions and perusal of the material available on record, this Court is of the view that the FIR and the charge-sheet disclose *prima facie* commission of a cognizable offence. The allegations made by the complainant cannot be said to be inherently improbable or absurd at this stage so as to warrant interference under Section 482 Cr.P.C. The contentions raised by the petitioner pertain to disputed questions of fact, including delay in lodging the FIR, alleged malafides, and applicability of statutory exceptions, which require appreciation of evidence and can be adjudicated only during trial.
7. At the stage of framing of charge, the court is not required to meticulously examine the evidence on record and not to conduct mini trial. The court would only consider whether *prima facie* material is there or not to proceed with the trial. The Hon'ble Supreme Court has laid down the principles in the case of **State of M.P. vs. Deepak**, 2019 (13) SCC 62, wherein the Hon'ble Supreme Court has held that at the stage of framing of charge, the court has to consider the material only to find out if there is a ground for presuming that the accused had committed the offence.

It is also held that the Court is required to evaluate the material and documents on record to find out that if facts emerging therefrom are taken at their face value disclose the existence of all the ingredients constituting the alleged offence and at the stage of framing of charge, the court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of evidence recorded is likely to be convicted or not. In the matter of **Deepak** (Supra), in its judgment, the Hon'ble Supreme Court has held that:-

“16. It was also noted that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence : (*Chitresh Kumar Chopra case [Chitresh Kumar Chopra v. State (NCT of Delhi)*, (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] , SCC p. 613, para 25)

“25. It is trite that at the stage of framing of charge, the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for “presuming” that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.”

8. In the matter of **State (NCT of Delhi) vs. Shiv Charan Bansal and Others**, 2020 (2) SCC 290, the Hon'ble Supreme Court has held that at the stage of framing of charge, the trial court is not required to conduct a meticulous appreciation of evidence or a roving inquiry into the same and has the power to sift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case is made out against the accused to proceed with the trial.
9. In the present case, after considering the evidence available on record annexed with the charge sheet, the trial Court rightly comes into conclusion that there are sufficient ground for framing of charge and to proceed with the trial and in pursuance thereof has framed charge against the petitioner for the offence under Section 377 of the IPC, which cannot be said to be either perverse or contrary to the facts of the case calling for any interference invoking jurisdiction under Section 482 of the Cr.P.C.
10. In view of the judgments cited above and the facts of the present case, we do not find any ground to interfere with the impugned order of framing of charge, therefore, the petition lacks merits and is hereby **dismissed**.
11. The interim order dated 06.03.2024 stands vacated.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice