

**HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**

**BEFORE HON.MR. JUSTICE ALOK VERMA, JUDGE**

**M.Cr.C. No.780/2017**

**Anurag S/o Mahesh Ji Lokhande**

**Vs.**

**State of Madhya Pradesh**

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Shri S.K. Vyas, learned Senior counsel with Shri L.S. Chandiramani, learned counsel for the applicant.

Shri Ashish Choubey, learned counsel for the respondent/State.

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**ORDER**

**( Passed on this      day of May, 2017 )**

This application under Section 482 of Cr.P.C. is filed aggrieved by the order passed by learned Fourth Additional Sessions Judge, Ratlam in Session Trial No.364/2015 dated 29.03.2016 wherein the learned Judge after hearing the counsels on the question of framing of charges had framed charges under Section 120-B and 201 of IPC against the present applicant..

2. The necessary facts giving rise to this matter are that according to prosecution story, on 27.09.2014, in front of the main gate of Nagar

Nigam Office, Ratlam, corporator Yasmeeen Sharani was shot at by some unknown person due to which, she sustained gun shot injury. On the report of Jahid S/o Gaffar Khan, Crime No.587/2014 was registered under Section 307/34 of IPC and Section 24 & 27 of Arms Act. During the investigation, the suspected accused Vaibhav S/o Omprakash Bairagi and Chandan S/o Mahesh Sharma were interrogated and their disclosure memo under Section 27 of Evidence Act were recorded.

3. According to facts revealed in these disclosure memo Vaibhav stated that he gave the pistol which was used in commission of the crime, to the present applicant Anurag for keeping it in his possession to hide it from the police. When disclosure memo of present applicant was recorded he disclosed that he gave the pistol to Tarun Sankhla from whose possession the pistol was recovered. This apart one spent cartridge and one spent bullet were also recovered. These three items were also sent to State Forensic Science Laboratory, Sagar for their examination by ballistic expert.

4. The Sessions Judge framed charges against the present applicant under Section 120-B of IPC for entering into the criminal conspiracy and also under Section 201 for destruction of legal evidence.

5. Learned counsel for the applicant vehemently submits that there is no evidence *prima facie* available against the present applicant. The facts disclosed in their disclosure memo under Section 27 of Evidence Act are not admissible in evidence and as such no legal evidence is

against the present applicant.

6. Learned counsel for the State opposed the application.

7. I have gone through the copies of charge-sheet filed by the present applicant and find that the pistol was seized in response to the facts disclosed by the present applicant in his disclosure memo. The same was sent for comments of the ballistic expert. One empty cartridge and one spent bullet were also seized from the spot and if it is found in the report of ballistic expert that bullet was fired from the pistol recovered at the behest of the present applicant. His participation in the conspiracy and destruction of evidence would be to some extent indicated. At the stage of framing of charges, detailed scrutiny is not required only the *prima facie* evidence should be of such that it would create a grave suspicion in mind of the Court that there exists a possibility of commission of the crime, as claimed by the prosecution. When such suspicion exists on the basis of *prima facie* evidence, the charges can be framed. Accordingly, since there are *prima facie* evidence to show involvement of the present applicant in the criminal conspiracy, no interference is called for in the impugned order.

This application is devoid of any force, liable to be dismissed and dismissed accordingly.

**(Alok Verma)**  
**Judge**

**Ravi**