

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE SHEEL NAGU

&

HON'BLE SHRI JUSTICE HIRDESH

ON THE 26th OF OCTOBER, 2023

CRIMINAL REVISION No. 3183 of 2023

BETWEEN:-

**SMT. PUSHPA GOYAL W/O RAMESH KUMAR
GOYAL, AGED ABOUT 40 YEARS, OCCUPATION:
CONTRACTUAL SUPERVISOR RURAL AREA
WOMEN AND CHILD DEVELOPMENT PROJECT
BEGUMGANJ DISTT. RAISEN R/O HADAIPUR
RENTAL HOME OF P.S. THAKUR WARD O 16
BEGAM GANJ DISTT. RAISEN (MADHYA
PRADESH)**

.....PETITIONER

(BY SHRI AKSHAT SHUKLA -ADOVATE)

AND

**THE STATE OF MADHYA PRADESH THROUGH
P.S. SPECIAL POLICE ESTABLISHMENT
(LOKAYUKT) DISTRICT BHOPAL (MADHYA
PRADESH)**

.....RESPONDENTS

(BY SHRI ABHIJEET AWASTHY - ADVOCATE)

This revision coming on for admission this day, Justice Hirdesh

passed the following:

ORDER

The petitioner has filed this revision under Section 397/401 of Criminal Procedure Code, 1973 (in short “Code”) against the charges framed by the learned trial Court, Special Judge, Lokayukt, Raisen (M.P) under Sections 13(d) and 13(2) of Prevention of Corruption Act, 1988 (in short “PC Act”) and Section 120(b) of IPC in Special Case No. Lok/02/2021.

2. In brief, the facts of the case are that on 10-05-2016, the complainant Smt. Chandra Prabha Rathore submitted a written complaint in the O/o of SP Lokayukt, Bhopal that she is the President of Shri Devi Helping Group which is involved in providing food to some of the wards of Begumganj Raisen. The expenditure of the food provided by the said Group is borne by the State Government and the amount thereof was disbursed on the sanction of Project Officer- Archana Bajpayee and then sent to Raisen by her, after which, the amount for the said project is credited to the account of Helping Group. It was alleged in complaint that the husband of Smt. Archana Bajpayee, Shri Vikas Tiwari is demanding Rs. 19,000/- for withdrawal of money. On the same day, the complainant was given DVR to record the demand conversation. It is alleged that she recorded the demand

conversation made by Shri Vikas Tiwari but, Smt. Archana Bajpayee did not make any conversation regarding demand and instead directed complainant to talk about this to her husband only. In view of the said allegations, trap proceedings were initiated against the accused persons on 16-05-2016. However, on the date of trap proceedings Shri Vikas Tiwari did not turn up to receive the amount from the complainant. It is alleged that Shri Vikas Tiwari has sent the present petitioner/applicant along with Shri Bhagwati Sahu to collect money from the complainant, who was alleged to be caught red-handed while taking bribe from complainant.

3. In view of said proceedings Crime No. 150/2016 has been registered against the present petitioner/applicant. Aggrieved by the charge-sheet dated 10-11-2021 bearing No. 121/21 filed in the Court of Special Judge, Lokayukt, Raisen (M.P) against the present applicant and in view thereof on 20-04-2023 charges were framed against the applicant under Sections 13(d) and 13(2) of PC Act, 1988 and under Section 120(b) of IPC in Special Case/Lokayukt/02/2021.

4. Being aggrieved by framing of charges, the petitioner/applicant filed this revision petition for discharging her on the following grounds that the petitioner has no knowledge that said

money given by the complainant is bribe money. The petitioner is no way involved in the said transactions between the complainant and the other co-accused. She has no knowledge that the said amount was bribe. The petitioner went to collect the amount only upon the instructions of her superior authorities being aware of the address of the complainant, as she was a tenant of the present complainant.

4.1 The petitioner is a Contractual Supervisor at Rural area Women and Child Development Project, Begumganj District Raisn and has no authority or role to play in the said transaction. He further submitted that the learned Trial Court has framed the aforesaid charges without appreciating material available on record against the petitioner. He further submitted that the entire material collected by the Police, it is clear that there is no evidence against the petitioner to connect him with the commission of an offence under Sections 13(1) (d) and 13 (2) of PC Act and in absence of any evidence against the petitioner, no charge can be framed. So, prayed to allow the revision petition and quash the charges framed against the petitioner and discharge the petitioner in the interest of justice.

5. On the other hand, opposite counsel contended that on true interpretation of Section 227 of Code, the only material sent by the

prosecution along with record of the case can be considered by the learned trial Court at the time of framing of charges. He further submitted that at the stage of framing of charges, appreciation of evidence and defence of accused is impermissible.

6. We have heard the learned counsel for the parties and perused the charge-sheet.

7. At the stage of framing of charges, the learned Trial Court is required to consider whether there are sufficient grounds to proceed against the accused. Section 227 of Code provides for eventuality, when the accused shall be discharged. If not discharged, the charge against the accused is required to be framed under Section 228 of Code. These two Sections reads as under :-

“227. Discharge: If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of charge :(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-
(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, and thereupon the Chief Judicial Magistrate shall try the

offence in accordance with the procedure for the trial of warrant- cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub- section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

8. In *State of Bihar v. Ramesh Singh* [(1977) 4 SCC 39 : 1977 SCC (Cri) 533] considering the scope of Sections 227 and 228 of the Code, it was held that at the stage of framing of charge, it is not obligatory for the judge to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. At that stage, the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion, at the initial stage of framing of charge, is sufficient to frame the charge and in that event, it is not open to say that there is no sufficient ground for proceeding against the accused.

9. In *Supdt. and Remembrancer of Legal Affairs, W.B. v. Anil Kumar Bhunja* [(1979) 4 SCC 274 : 1979 SCC (Cri) 1038 : (1980) 1 SCR 323] a three-Judge Bench held that the Magistrate at the stage of framing charges had to see whether the facts

alleged and sought to be proved by the prosecution *prima facie* disclose the commission of offence on general consideration of the *materials placed before him by the investigating police officer*. (emphasis supplied) Though in this case the specific question whether an accused at the stage of framing of charge has a right to produce any material was not considered as such, but that seems implicit when it was held that the Magistrate had to consider material placed before it by the investigating police officer.

10. In *State of Delhi v. Gyan Devi* [(2000) 8 SCC 239 : 2000 SCC (Cri) 1486] this Court reiterated that at the stage of framing of charge the trial court is not to examine and assess in detail the materials placed on record by the prosecution nor is it for the court to consider the sufficiency of the materials to establish the offence alleged against the accused persons.

11. In *State of M.P. v. S.B. Johari* [(2000) 2 SCC 57 : 2000 SCC (Cri) 311] it was held that the charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted, cannot show that the accused committed the particular offence. In that case, there would be no sufficient ground for proceeding with the trial.

12. In *State of Maharashtra v. Priya Sharan Maharaj* [(1997) 4 SCC 393 : 1997 SCC (Cri) 584] it was held that at Sections 227 and 228 stage 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. The court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

13. All the decisions, hold that there can only be limited evaluation of materials and documents on record and sifting of evidence to *prima facie* find out whether sufficient ground exists or not for the purpose of proceeding further with the trial, have so held with reference to materials and documents produced by the prosecution and not the accused. The decisions proceed on the basis of settled legal position that the material as produced by the prosecution alone is to be considered.

14. It is undisputed that tainted money was recovered from the possession of the petitioner.

15. The submission of learned counsel for petitioner that petitioner/applicant was not aware that the said amount is bribe cannot be countenanced since this relates to the realm of defence of petitioner which cannot be seen at this preliminary stage.

16. Section 20 of PC Act reads as under :-

“20. Presumption where public servant accepts gratification other than legal remuneration.—

(1) Where, in any trial of an offence punishable under section 7 or section 11 or clause

(a) or clause (b) of sub-section (1) of section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(2) Where in any trial of an offence punishable under section 12 or under clause (b) of section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7, or as the case may be, without consideration or for a consideration which he knows to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no interference of corruption may fairly be drawn.”

17. Learned counsel for the petitioner has relied upon the judgment of the Apex Court in **Neeraj Dutta Vs. State (Government of NCT of Delhi)[(2023) 4 SCC 731]** where challenge was to conviction but not to framing of charge, hence is of no avail to petitioner.

18. On the basis of above discussion and the legal position and perusal of charge-sheet and recovery of bribe money from the petitioner/applicant, there is sufficient material for framing of charges against the accused. So, at this stage, this court has found that there is no illegality in framing of charges against the accused by the trial Court.

19. Thus, in view of aforesaid observation, we do not find any reason to interfere in the impugned order framing charges against the petitioner. The petition is hereby **dismissed**. However it is made clear that this Court has not made any observation as to acceptability or otherwise of the material available on the record nor any opinion on

the merits of the case being expressed, observation herein are solely for the purpose of disposal of this case.

(SHEEL NAGU)

JUDGE

(HIRDESH)

JUDGE

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