

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.831 of 2022**

1. Dilip Kumar S/o Daroga Prasad Aged About 25 Years R/o Village Nevraj, District- Kaimur Bhagua, Bihar At Present, R/o Gevra Basti Barpali Road, Near SGM School, Police Station Kusmunda, District- Korba, Chhattisgarh.
2. Pritosh Kumar Gupta S/o Prem Kumar Gupta Aged About 28 Years R/o Gevra Basti Barpali Road, Near SGM School, Police Station Kusmunda, District- Korba, Chhattisgarh.
3. Saurabh Kumar S/o Gauri Shanker Kumar Gupta Aged About 23 Years R/o Village Nevraj, District Kaimur Bhagua, Bihar At Present, R/o Gevra Basti Barpali Road, Near SGM School, Police Station Kusmunda, District- Korba, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Aajak, Korba, District- Korba, Chhattisgarh.

----Non-Applicant

For Applicant:	Shri Parag Kotecha, Advocate.
For Non-Applicant/State:	Shri Sudhir Sahu, PL.

Hon'ble Shri Justice Deepak Kumar Tiwari**Order on Board****14.11.2022**

1. This Revision has been filed being aggrieved by the order dated 18.07.2022 passed by the learned Special Judge, Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 Korba (for short 'the Act of 1989') in Special Criminal Case No.11/2022 framing charges against the Applicants.
2. Learned Counsel for the Applicants submits that no offence under Section 3(2)(va) of the Act of 1989 has been made out against the present Applicants. He draws the attention of this Court to the FIR which has been lodged on the basis of a written complaint made by the victim/complainant wherein, nothing has been mentioned regarding the commission of said offence by the Applicant knowing that the victim belongs to the SC/ST community. He further submits that the victim had developed a concocted story and improved her statement while

recording of the statement on 31.05.2020 and in her statement recorded under Section 161 Cr.P.C, she has stated that she has been insulted as she belongs to the SC community. He further submits that in the statement of the victim recorded on 08.06.2020 by the A.S.I. Neelam Kerketta of P.S Balconagar, she has not stated that the incident took place on account of any atrocity. He lastly submits that considering all the material discrepancies, the charge under Section 3(2)(va) of the Act of 1989 is not made out and prays to discharge the Applicants from the charge under the said Section.

3. On the other hand, Shri Sahu, learned Counsel for the State opposes the Revision and submits that at the stage of framing charge, the grounds raised were not sustainable and the material placed on record by the prosecution discloses the existence of necessary ingredients of Section 3(2)(va) of the Act of 1989 and the other charges framed under Sections 341, 354, 354-A, 509-B/34 and 67-A of the Information Technology Act, 2000 are also based on the material placed on record and prays for dismissal of the Revision.

4. Heard learned Counsel for the parties and perused the documents annexed with the Petition.

5. It is settled law that while framing of charge, appreciation of evidence is not required and at that stage, it is also not desirable for weighing the pros and cons of all the implications of the material, nor for shifting the materials placed by the prosecution and the only thing which needs to be considered is whether there is existence of ingredients necessary to constitute the offence.

6. In Asian Resurfacing of Road Agency Private Limited and Another vs. Central Bureau of Investigation reported in **(2018) 16 SCC 299**, it has been held that interference in the order framing charges or refusing to discharge is called

for in the rarest of rare case only to correct the patent error of jurisdiction.

7. In the matter of Munna Devi vs. State of Rajasthan reported in (2001) 9 SCC 631, it has been held at para-3 as under:-

“3..... The revision power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged.”

8. In view of above, this Court is not inclined to interfere with the order of framing charge as passed by the learned Special Judge. Accordingly, the order impugned is affirmed and the Revision being devoid of merits is hereby **dismissed**.

9. It is made clear that the observation made by this Court shall not be construed to be an opinion on the merits of the case and the trial Court shall be at liberty to decide the case on its own merits in accordance with law.

Sd/-

(Deepak Kumar Tiwari)
Judge