



2025:CGHC:32346

AFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### CRR No. 388 of 1997

**1** - Hunnaid Hussain S/o Tayyab Bhat Aged About 40 Years R/o Sadar Bazar, Raipur

**2** - Kejuram Devangan S/o Turant Devangan Aged About 62 Years R/o Village Mushwadi, P.S. Simga, Tehsil And District Raipur,

**... Applicants**

**versus**

State Of M.P. Through S.H.O. Amanaka, District Raipur, (M.P. Now Chhattisgarh)

**... Respondent**

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For Applicant No.1	: Mr. Anurag Verma, Advocate.
For Applicant No.2	: None
For Respondent	: Mr. Shailendra Sharma, Panel Lawyer.

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**Hon'ble Shri Bibhu Datta Guru, Judge**

**Order on Board**

**11.07.2025**

1. The present revision is filed by the applicants for setting aside the impugned order and the applicants be discharged from the offence i.e. Section 5 of the Explosives Substances Act, 1908 and Section 9B of the Explosives Act, 1884
2. Facts of the case, in brief, is that the applicant No.1 is a partner of Firm M/s Tayyab Bhai Badruddin, which is licensee under the Explosive Act for possession and sale of explosives. Applicant No.2 works in the said firm. Under the terms of the license and the provisions of Explosive Act and Explosive Substances Act, the

Firm can sale explosives to persons holding license to carry, posses and use the explosives. There is no dispute that one Kishumlal Bhakta of village Kodwa of P.S. Durg held such license bearing license No. 1927 which was seized by the Police. During investigation, the Police has also seized vide Annexure-A relevant registers of the Firm which records that 25 Kgs of explosive Special Gelatine and 25 Electric detonators were sold to Kishunlai Bhakta. There are corresponding entries in the register of Kishunlai Bhakta of the purchase of the said explosive with Bill Number, Voucher Number and Pass Number in the register which was seized by the Police vide Annexure-B.

3. On secret information, the competent authority raided the premises of the godown of co-accused Deepak Kumar and Ramkhilawan and found the explosives from their possession. On being enquiry made, the said co-accused told that they have brought it from the firm of Hunnaid Hussain. It was alleged that they did not possess the license for possessing the said explosives. It is alleged that the present applicants and the above two named persons were guilt of offences punishable under Section 5 of the Explosive Substances Act and Section 9 of the Explosive Act.
4. The learned trial Court on appreciation and due consideration of material available on record/charge-sheet, framed the charges against the applicants vide impugned order dated 05/04/1997 for the offence punishable under Section 5 of the Explosives Substances Act, 1908 and Section 9B of the Explosives Act,

1884. Hence, this revision.

5. Shri Anurag Verma, learned counsel would submit that he is appearing on behalf of the applicant No.1 and would submit that when the prosecution did not produce the seizure of documents made from Kishunlal and attempted to keep it back from the Court, it cannot be ruled out that statement of Kishunlal was purposefully not produced alongwith the case-diary. At any rate, the Court was not powerless to require the Investigating Agency to make further investigation by recording the statement of Kishunlal. He further submits that an adverse inference should have been drawn against the prosecution and documents seized from Kishanlal should have been taken into consideration while framing charges.
6. None for the applicant No.2.
7. Learned counsel for State/respondent supports the impugned order passed by the learned trial Court.
8. I have heard learned counsel for the parties and perused the material on record.
9. The present revision was filed in the year 1997 and by order dated 2/5/1997 the Court issued notice to the respondent and further stayed the proceedings in ST No.481/96 pending in the Court of VII Additional Sessions Judge, Raipur, was stayed until further orders. Since then the matter is pending consideration i.e. last more than two & half decades.
10. It would be relevant to quote the provisions of Section 5 of

the Explosives Substances Act, 1908 and Section 9B of the Explosives Act, 1884, which read thus :

### **Section 5 of the Explosive Substances Act, 1908**

#### **5. Punishment for making or possessing explosives under suspicious circumstances**

Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punished,

(a) in the case of any explosive substance, with imprisonment for a term which may extend to ten years, and shall also be liable to fine;

(b) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

### **Section 9B of the Explosives Act, 1884**

**9B. Punishment for certain offences.--** (1) Whoever, in contravention of rules made under section 5 or of the conditions of a licence granted under the said rules--

(a) manufactures, imports or exports any explosive shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;

(b) possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees or with both; and

(c) in any other case, with fine which may extend to one thousand rupees.

(2) Whoever in contravention of a notification issued under section 6 manufactures, possesses or imports any explosive shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both; and in the case of importation by water, the owner and master of the vessel or in the case of importation by air, the owner, and the master of the aircraft, in which the explosive is imported shall, in the absence of reasonable excuse, each be punishable with fine which may extend to five thousand rupees.

(3) Whoever,--

(a) manufactures, sells, transports, imports, exports or possesses any explosive in contravention of the provisions of clause (a) of section 6A; or

(b) sells, delivers or despatches any explosive in contravention of the provisions of clause (b) of that section, shall be punishable with

imprisonment for a term which may extend to three years or with fine or with both; or

(c) in contravention of the provisions of section 8 fails to give notice of any accident shall be punishable,--

(i) with fine which may extend to five hundred rupees, or

(ii) if the accident is attended by loss of human life, with imprisonment for a term which may extend to three months or with fine or with both.]

11. Having considered the entire material available on record and particularly considering the seriousness of the offences relating to explosives, in my opinion the trial court rightly framed the charge against the petitioners for contravening the provisions of the Explosive Substances Act and the Explosives Act. It is thus clear that prima facie the petitioners contravened the provisions of the Explosive Substances Act.

12. It is the trite law that no reasons are required to be recorded when the charges are framed against the accused and the High Court to be loathe in interfering at the stage of framing the charges against the accused. It is worthwhile to mention here that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Even it is not obligatory for the Judge at that stage of the trial 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. If there is a strong suspicion which leads the court to think that there is ground for presuming that the accused has committed an offence then it is not open to the court to say that there is no sufficient ground for proceeding

against the accused.

13. The Supreme Court in 'n' number of cases reminded the High Court of their statutory obligation to not interfere at the initial stage of framing the charges merely on hypothesis, imagination and far fetched reasons which in law amount to interdicting the trial against the accused persons. Unscrupulous litigants should be discouraged from protecting the trial and preventing culmination of the criminal cases by having resort to uncalled for an unjustified litigation under the cloak of technicalities of law.

14. It is well settled principle that the material to sustain conviction is different from the framing of the charges. The Hon'ble Supreme Court in a catena of decisions has laid the principle that while dealing the discharge petition, the Court has no jurisdiction to look into the documents and conduct a mini trial either as a trial Court or as a appellate Court against the conviction to deal the discharge petition.

15. By applying the above principle, this Court is inclined to hold that the petitioners failed to make out the case for discharge. In this said circumstances, this Court finds no merit in the instant revision.

16. In the result, the Criminal Revision is dismissed.

SD/-

**(Bibhu Datta Guru)**  
**Judge**

**Head Note**

It is the statutory obligation to not interfere at the initial stage of framing the charges merely on hypothesis, imagination and far fetched reasons which in law amount to interdicting the trial against the accused persons

यह कानूनी दायित्व है कि आरोप विरचित करने के प्रारंभिक चरण में, मात्र अनुमान, कल्पना व क्लिष्ट कल्पित आधार पर हस्तक्षेप न किया जाए, कानून में यह अभियुक्तों के विरुद्ध विचारण कार्यवाही को बाधित करने के समान है।