
(1976) 07 SHI CK 0008
In the High Court Of Himachal Pradesh

Bagga Singh

APPELLANT

Vs

The State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 27-07-1976

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397(2), 484
Penal Code, 1860 (IPC) — Section 201, 302

Citation : (1977) CriLJ 301 : (1977) ShimLC 127

Hon'ble Judges : Chet Ram Thakur, J

Bench : Single Bench

Judgement

Chet Ram Thakur, J.—This revision petition is directed by the petitioner for quashing the charge framed against him on 31-7-1975 by the Additional Sessions Judge, Mandi. He has been charged under Sections 302/201 of the Indian Penal Code.

2. A preliminary objection has been taken by the learned Counsel for the respondent that the framing of a charge does not amount to the final decision of the case and that this is a proceeding which is purely interlocutory and as such this petition is barred under subsection (2) of Section 397 of the Code of Criminal Procedure, 1973.

3. The learned Counsel for the petitioner on the strength of Narain Mahton and Others Vs. Mahesh Prasad Singh and Others, submits that since the charge was framed in a case which had been pending before the commencement of the new Code, therefore, the revision would lie under the old Code because the provisions of the old Code are saved by Section 484 of the new Code. But, to me it appears that this submission is wholly incorrect. A bare perusal of Section 484 of the new Code would reveal that the old Code shall apply to appeal, application, trial, inquiry or investigation pending immediately before the date on which the new Code came into force. It does not save the old Code for purposes of appeals or revisions, etc., to be filed after the commencement of the new Code arising against any proceeding which had been filed in the trial Court before coming into

force of the new Code. In my opinion, if I may say so with respect the authority relied upon by the learned Counsel for the petitioner is not correct. Framing of charge as is held in Bhupinder Kumar Vs. State, as also held by this Court in State of Himachal Pradesh Vs. Harbans Singh and Another, does not decide the question of the guilt or the innocence of the accused. The order merely keeps the proceedings alive. Even if the order framing a charge is treated as an order declining to discharge the accused, even then it does not amount to a final order. Therefore, it being an interlocutory order, by virtue of Sub-section (2) of Section 397 of the new Code, the powers of revision conferred on this Court cannot be exercised in relation to such an interlocutory order and, therefore, the preliminary objection raised by the respondent is upheld and the petition is dismissed on this preliminary score.