

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Crl R No. 8/2022

Reserved on: 17.11.2025

Pronounced on: 24.11.2025

Uploaded on: 26.11.2025

*Whether the operative part or full
judgment is pronounced:- Full Judgment*

Union Territory of J&K through P/S Chadoora ...Petitioner(s)

Through: Ms. Noubahar Khan, AC vice
Mr. Bikramdeep Singh, Dy.AG.

Vs.

Mansoor Ahmad Mir & Ors. Respondent(s)

Through: Mr. Kaiser Ali, Advocate.

CORAM: HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

JUDGMENT

- 1.** This Revision Petition is directed against the order/judgment dated 29.12.2021 (for short 'impugned order') passed by the court of learned Principal Sessions Judge, Budgam in a case titled '*UT of J&K Vs. Mansoor Ahmad Mir & Ors.*' arising out of FIR No.64/2029 under Sections 307, 147, 148 & 336 RPC registered in Police Station, Chadoora, by virtue of which the respondents-accused have been discharged from the commission of the offence punishable under Section 307 RPC leveled against them.
- 2.** Police Station, Chadoora through a reliable source, received information, to the effect that on 18.04.2019

after voting was over, the police personnel along-with other security forces were proceeding towards Charar-i-Sharief for depositing the EVM machines, and when the police party/security forces reached Ropora, Yarikalan, Chadoora, the accused-respondents, armed with lathis and stones with the intention to cause death, resorted to heavy stone pelting upon the police party/security forces and resultantly a number of government as well as civilian vehicles got damaged; that upon receipt of the said information a case FIR No.64/2019 under Sections 307, 147, 148, 336 RPC came to be registered in Police Station, Chadoora and the investigation was set into motion.

- 3.** During the course of investigation the I.O concerned went on to the spot, prepared a site plan and recorded the statements of the witnesses; that the I.O concluded the investigation of the case against the accused persons for the commission of the aforementioned offences; that a charge- sheet was filed against the accused-respondents before the court of learned Judicial Magistrate, Chadoora; that since the offence punishable under Section 307 RPC was exclusively triable by the court of Sessions, as such, the learned Judicial Magistrate, Chadoora committed the case to the court of learned Principal Sessions Judge, Budgam; that the trial court after hearing the prosecution and the defense counsel on the point of framing of

charge/discharge vide order dated 29.12.2021, discharged the accused from the commission of offence punishable under Section 307 RPC, however framed charge against them under Sections 148, 336, 427 RPC and transferred the case again to the court of learned Judicial Magistrate, Chadoora for trial for the offences punishable under Sections 148, 336, 427 RPC.

4. In terms of the impugned order dated 29.12.2021, the court of learned Principal Sessions Judge, Budgam after hearing both the sides concluded that the police report and other material on record do not suggest any ground for presuming the accused to be guilty of offence punishable under Section 307 RPC, however, there are sufficient materials to connect them with rest of the allegations.

5. The petitioner-UT of J&K in this Revision Petition challenges the impugned order to the extent of discharge of the respondents-accused from the offence punishable under Section 307 RPC on the ground that the learned trial court had discharged the accused/respondents from the offence punishable under Section 307 RPC at the time of framing of charge itself and that there is sufficient material and evidence collected during the course of investigation on record which is cogent, credible and convincing enough to prove the allegations against the

accused persons, as such, there is sufficient material and grounds on record produced and relied upon by the prosecution to frame charges against the accused-respondents. The prayer of the petitioner herein is that on the basis of evidence, the respondents-accused be charge-sheeted after setting aside their discharge recorded by the learned trial court.

6. Heard learned counsel for the parties and perused the record available on file.
7. The court of the learned Principal Sessions Judge, Budgam while discharging the accused persons from the offence punishable under Section 307 RPC in terms of the order impugned dated 29.12.2021, has made the following observations:-

"...5. At the outset, it may be stated that at this stage only thing to be seen is whether there are "Grounds for Presuming the guilt of accused. Accordingly while the materials and documents on record do suggest existence of facts which warrant a trial of case for the offences of rioting and acts of endangering personal safety of others in furtherance of common object; there is nothing to make out a charge for an attempt to commit murder. All that the set of allegations against the accused contains, is, that besides constituting an unlawful assembly in furtherance of common object, they pelted stones on the police party and the Government vehicles when the police and security forces were deployed on election duty and were proceeding alongwith EVM machines towards Charar-i-sharef. It does not contain anything specific to suggest that they attempted to commit murder.

No injury memo or wound certificate to suggest that any person of the complainant party was injured much-less the injury was sufficient to cause death in all probability is available on the file. Equally, there is no seizure of any incriminating article much-less a weapon capable of being used to commit murder in the alleged sequence of events. There is no other material which could answer the description of proposed evidence to be used by the prosecution at the trial. The charge of attempt to murder can only be sustained on such allegations, which, coupled with the actual death of victim would attract charge of murder. In the given circumstances of this case, charging accused with an attempt to murder will be too far a stretch of imagination and the contention of Ld. PP thus is not tenable.

6. Thus to conclude, I am of the opinion that police report and other materials on record do not suggest any ground for presuming the accused to be guilty of offence punishable under Section 307 RPC. However, there are sufficient materials to connect them with rest of allegations.

7. Accordingly, accused are charged with offences punishable under Sections 148, 336 & 427 RPC. Let separate charge sheets be framed against each of them."

8. It is trite that to constitute the offence under Section 307 RPC, the law is that there must be intention to commit the offence of murder, and 'some act' must have been done towards the commission of the said offence and this 'some act' must be proximate to the intended result of causing murder. The measure of proximity is not in relation with attempt and action but in relation to the intention. In other words the

intention must be with reasonable certainty in conjunction with facts and circumstances and not in isolation an intention distinguished from mere desire or object to commit offence or murder. Intention is a state of mind, has to be gathered from the surrounding circumstances like weapon of offence used, nature of injury caused and the motive. Besides this the act must be done with such intention, knowledge or under such circumstances that if death is caused by that act, the offence of murder would emerge.

9. From the perusal of the instant case, there is nothing on record to show that the respondents-accused had an intention to cause the death of any person. The learned trial court has recorded the reasons which are based on meticulous appreciation of proof/evidence available on record.
10. It is a settled position of law that this Court while hearing a revision petition can re-appreciate the evidence, however, it should not interfere with the order of discharge or for that matter order of acquittal if the view taken by the learned trial court is also a reasonable view of the evidence on record and the findings recorded by the learned trial court are not manifestly erroneous, contrary to the evidence on record or perverse.

11. In this regard, this Court is fortified with a judgment of the Hon'ble Supreme Court of India reported as **AIR 1990 SC 1962** titled "**Niranjan Singh Karam Singh Punjabi Vs. Jitendra Bhimaraj Bijje & Ors.**" wherein the Apex Court observed as under:-

"The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence adduced before him while giving rise to some suspicion but not grave suspicion against the accused he will be fully within his right to discharge the accused."

12. As it is apparent from the record of the instant case, the learned Sessions court in its well reasoned order has appreciated the material evidence on record and came to the conclusion that the police report and other materials on record do not suggest any ground for presuming the accused, to be guilty of offence punishable under Section 307 RPC, however, found that there are sufficient materials to connect them with rest of the allegations.

- 13.** In this view of the matter, the impugned order recorded by the learned Principal Sessions Judge, Budgam on 29.12.2021, does not suffer from any impropriety or illegality.
- 14.** Having regard to the aforesaid reasons, the Revision Petition is found without merit and substance and is hereby **dismissed**.
- 15.** Interim order, if any, shall stand revoked.
- 16.** A copy of this order be forwarded to the learned trial court, for information.

Srinagar
24.11.2025
Muzammil. Q

