

Neutral Citation No. - 2025:AHC:127550

Reserved on : 16.07.2025

Delivered on : 28.07.2025

Court No. - 80

Case :- CRIMINAL REVISION No. - 3826 of 2023

Revisionist :- Shiv Shanker And Another

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Araf Khan,Lihazur Rahman Khan

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Challenge in this criminal revision is to the order dated 28.06.2023 passed by Sessions Judge, Etawah in Sessions Trial No. 69 of 2023 (State of U.P. Vs. Pradeep Kumar Verma @ Rajjan and others) under Sections 147, 323/149, 324/149, 304/149, 504, 506 I.P.C. Police Station Bharthana District Etawah, whereby, Court below has framed charges against revisionists in exercise of jurisdiction under Section 228 Cr.P.C.

2. I have heard Mr. Araf Khan, the learned counsel for revisionists and the learned A.G.A. for State-opposite party-1.

3. Perused the record.

4. Present criminal revision came up for admission on 07.08.2023 and this Court passed the following order:-

“Learned counsel for the revisionists is present

Issue notice to opposite party no.2

Counter affidavit may be filed within two weeks.

Rejoinder affidavit, if any, be filed within a week thereafter.

List on 04th September, 2023 as fresh. ”

5. In compliance of above order, notice was issued to opposite party-2. Office has submitted a report dated 26.10.2023 stating therein that notice issued to opposite party-2 has been served personally.

6. Record shows that an incident is alleged to have occurred on 30.08.2022 in which one Saurabh Verma sustained injuries.

7. Subsequent to above, the injured Saurabh Verma was medically examined. His Medical Examination Report is on record at page 75 of the paper book. As per the aforesaid medical report the injured sustained following injuries:-

"1. Multiple reddish contusion of size 0.7x3 cm on left scapula reason. 10 cm below from left shoulder joint

2. Reddish contusion of size 5x2 cm on left side back of chest 5cm below from Injury No.1

3. Multiple abraded contusion of size x 4 cm on Dorsal Surface of left F/A 9cm below from left elbow. Tenderness present Injury KUO. Advised X-ray, Left F/A

4. Multiple abraded contusion of area 7.5x4.5 cm, dorso vertebral Asp. Of Right F/A elbow Joint

5. Reddish contusion of size 4 cmx 2cm on anterior asp. Of right knee joint

6. Reddish contusion of size 4.5 cmx 1.5cm on anterior asp. Of left knee joint

7. Reddish contusion of size 3 cmx 5cm on right leg 4cm below from right knee joint

8. Reddish contusion of size 5 cmx 3.5cm on anterior asp. Of left leg 8cm below, from left knee joint"

8. Ultimately, the injured Saurabh Verma died on 10.09.2022 while undergoing treatment at Pushpanjali Hospital & Research Centre (P) Ltd.

9. Subsequent to above, a delayed FIR dated 10.09.2022 was lodged by first informant opposite party-2 Prakashwati and was registered as Case Crime No.0292 of 2022, under Sections 147, 323, 324, 504, 506, 304 I.P.C. Police Station Bharthana, District Etawah. In the aforesaid FIR, five persons namely (1) Pradeep Kumar Verma @ Rajjan (2) Aditya Kumar (3) Ragini (4) Shiv Shankar and (5) Manish Kumar were nominated as named accused.

10. After aforementioned FIR was lodged, Investigating Officer proceeded with statutory investigation of concerned case crime number in terms of Chapter XII Cr.P.C. The inquest (Panchnama) of the deceased was conducted on 10.09.2022. In the opinion of the witnesses of inquest (panch witnesses), no definite opinion could be given regarding the nature of death of the deceased i.e. whether the same is homicidal or suicidal.

11. Thereafter, post-mortem of body of the deceased was conducted on the next day i.e. 11.09.2022. In the opinion of autopsy surgeon who conducted autopsy of the body of deceased, the cause of death of deceased is Septic Shock as a result of Ante-mortem injuries. The autopsy surgeon found following ante-mortem injuries on the body of the deceased:-

"1.Surgical Dressing from Right Knee to lower part of Legs

2.Septic Wound size 20.7cm deep cut fiber of Rt. Leg

3.M.A. size 25 * 2cm Right lower back of leg

4.M.A. size 10 * 4cm on left Knee joint to lower leg

5.M.A. Size 3 * 1 cm middle of nose

6.M.A. 1 * 10 cm

7. Healed wound"

12. Thereafter, Investigating Officer examined the first informant and other witnesses under Section 161 Cr.P.C. On the basis of above and other

material collected by him during course of investigation he came to the conclusion that complicity of three of the named accused is established in the crime in question. Accordingly, Investigating Officer submitted the charge sheet/police report dated 08.12.2022 in terms of Section 173 (2) Cr.P.C. whereby and whereunder, three of the named accused i.e. Pradeep Kumar Verma @ Rajjan, Shiv Shankar and Manish Kumar were charge sheeted under Sections 147, 323, 324, 504, 506, 304 I.P.C, whereas, investigation in respect of named accused Aditya Kumar and Ragini was said to be pending.

13. After submission of aforesaid charge sheet/police report cognizance was taken upon same by the jurisdictional Magistrate in exercise of jurisdiction under Section 190(1)(b) Cr.P.C. Accordingly, charge sheeted accused were summoned. Since offence complained of is triable by Court of Sessions, therefore, the jurisdictional Magistrate after complying with the formality contemplated under Section 207 Cr.P.C. i.e. supply of documents to accused and in line with Section 209 Cr.P.C. committed the case to Court of Sessions. Resultantly, Sessions Trial No. 69 of 2023 (State of U.P. Vs. Pradeep Kumar Verma @ Rajjan and others) under Sections 147, 323/149, 324/149, 304/149, 504, 506 I.P.C. Police Station Bharthana District Etawah came to be registered and is now pending in the Court of Sessions Judge Etawah.

14. Concerned Sessions Judge proceeded with the trial. In compliance of Section 228 Cr.P.C., he framed charges against charge sheeted accused vide framing of charge order dated 28.06.2023.

15. Thus, feeling aggrieved by the framing of charge order dated 28.06.2023 passed by Court below accused/revisionists have now approached this Court by means of present criminal revision.

16. At the very outset, the learned A.G.A. for State-opposite party-1 has raised a preliminary objection regarding maintainability of present criminal revision. Learned A.G.A. submits that as per the charge sheet as

many as 17 prosecution witnesses have been nominated therein. However, the statements of the nominated prosecution witnesses previously recorded under Section 161 Cr.P.C. have not been brought on record. Furthermore, there is no averment in the affidavit accompanying the stay application detailing other material collected by the Investigating Officer and relied upon by the prosecution, nor the same has been brought on record. He, therefore, submits that in the absence of above, the veracity of framing of charge order passed by Court below cannot be examined by this Court. To buttress his submission the learned A.G.A. has referred to the judgment of Supreme Court in **Kaptan Singh Vs. State of U.P. (2021) 9 SCC 35**, wherein, the Court observed that in the absence of material collected by Investigating Officer and relied upon by the prosecution, the veracity of the proceedings pending against an accused before Court below or the police report etc. cannot be examined by the High Court. Paragraph 9.1 of the report is relevant for the controversy in hand. Accordingly, the same is reproduced hereinunder:-

“At the outset, it is required to be noted that in the present case the High Court in exercise of powers under [Section 482](#) Cr.P.C. has quashed the criminal proceedings for the offences under [Sections 147, 148, 149, 406, 329 and 386](#) of IPC. It is required to be noted that when the High Court in exercise of powers under [Section 482](#) Cr.P.C. quashed the criminal proceedings, by the time the Investigating Officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the Learned Magistrate for the offences under [Sections 147, 148, 149, 406, 329 and 386](#) of IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. If the petition

under [Section 482](#) Cr.P.C. was at the stage of FIR [in that case](#) the allegations in the FIR/Complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in the case of [Dineshbhai Chandubhai Patel](#) (Supra) in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the Investigating agency nor can exercise the powers like an Appellate Court. It is further observed and held that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the Investigating Authority at such stage to probe and then of the Court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.”

17. On the above conspectus, the learned A.G.A. then submits that no case for interference is made.

18. Learned A.G.A. has then submitted that the prosecution of an accused can be sustained provided any of the following three contingencies exist:-

(i) As per the papers accompanying the charge sheet/police report submitted by the Investigating Officer in terms of Section 173(2) Cr.P.C., an offence is made out against accused.

(ii) There is evidence against accused in the papers accompanying the police report.

(iii) The prosecution of an accused can be sustained even on account of grave suspicion also.

19. Learned A.G.A. thus submits that as per the material on record of this criminal revision, it is apparent that the death of the deceased has occurred on account of Septic Shock as a result of ante-mortem injuries. He, therefore, submits that prima facie the prosecution of the accused for an offence under Section 304 I.P.C. is made out. This Court while dealing with the veracity of the framing of charge order can neither conduct a mini trial nor can the Court proceed to find out the innocence of the accused. In short, the probative value of the said material cannot be examined. To lend legal support to his submission, the learned A.G.A. has referred to the judgment of Supreme Court in **State of Karnataka Lokayukta, Police Station Vs. M.R. Hiremath (2019) 7 SCC 515**, wherein similar submissions as urged by the learned A.G.A. were considered and analyzed. For ready reference, paragraph 25 of the said judgment, which is relevant for the issue in hand is reproduced hereinbelow:-

"The High Court ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 239 of the CrPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In the State of Tamil Nadu V N Suresh Rajan, advertent to the earlier decisions on the subject; this Court held:

“29...At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.”

20. It was thus urged by the learned A.G.A. that as per the material on record, the charge under Section 304 I.P.C. is made out against accused revisionists or not, cannot be ascertained by this Court at this stage but only during the course of trial it can be ascertained that whether as per the evidence on record the charge under Section 304 I.P.C. is made out against accused or not but not at pre trial stage as much as there is presumption regarding correctness of the material collected by the Investigating Officer, during course of investigation. Reference was then made to the judgment of Supreme Court in **Tarun Jit Tejpal Vs. State of Goa and Another, 2019 SCC Online Sc 1053**. wherein Court has considered the parameters regarding discharge of an accused under section 227 Cr.P.C./framing of charge under Section 228 Cr.P.C., in paragraphs 28, 29, 30 and 31 of the report. The same reads as under:

" 28. In the case of N. Suresh Rajan (Supra) this Court had an occasion to consider in detail the scope of the proceedings at the stage of framing of the charge under Section 227/228 CrPC. After considering earlier decisions of this Court on the point thereafter in paragraph 29 to 31 this Court has observed and held as under:

“29. We have bestowed our consideration to the rival submissions and the submissions made by Mr. Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the

allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.

30. Reference in this connection can be made to a recent decision of this Court in *Sheoraj Singh Ahlawat v. State of U.P.* [(2013) 11 SCC 476 : (2012) 4 SCC (Cri) 21 : AIR 2013 SC 52], in which, after analysing various decisions on the point, this Court endorsed the following view taken in *Onkar Nath Mishra v. State (NCT of Delhi)* [(2008) 2 SCC 561 : (2008) 1 SCC (Cri) 507] : (*Sheoraj Singh Ahlawat* case [(2013) 11 SCC 476 : (2012) 4 SCC (Cri) 21 : AIR 2013 SC 52], SCC p. 482, para 15)

“15. ‘11. It is trite that at the stage of framing of charge 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, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the court is not expected to go deep into

the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.’ (Onkar Nath case [(2008) 2 SCC 561 : (2008) 1 SCC (Cri) 507], SCC p. 565, para 11)”

(emphasis in original)

31. Now reverting to the decisions of this Court in Sajjan Kumar [Sajjan Kumar v. CBI, (2010) 9 SCC 368 : (2010) 3 SCC (Cri) 1371] and Dilawar Balu Kurane [Dilawar Balu Kurane v. State of Maharashtra, (2002) 2 SCC 135 : 2002 SCC (Cri) 310], relied on by the respondents, we are of the opinion that they do not advance their case. The aforesaid decisions consider the provision of Section 227 of the Code and make it clear that at the stage of discharge the court cannot make a roving enquiry into the pros and cons of the matter and weigh the evidence as if it was conducting a trial. It is worth mentioning that the Code contemplates discharge of the accused by the Court of Session under Section 227 in a case triable by it; cases instituted upon a police report are covered by Section 239 and cases instituted otherwise than on a police report are dealt with in Section 245. From a reading of the aforesaid sections it is evident that they contain somewhat different provisions with regard to discharge of an accused:

31.1. Under Section 227 of the Code, the trial court is required to discharge the accused if it “considers that there is not sufficient ground for proceeding against the accused”. However, discharge under Section 239 can be ordered when “the Magistrate considers the

charge against the accused to be groundless”. The power to discharge is exercisable under Section 245(1) when, “the Magistrate considers, for reasons to be recorded that no case against the accused has been made out which, if unrebutted, would warrant his conviction”.

31.2. Section 227 and 239 provide for discharge before the recording of evidence on the basis of the police report, the documents sent along with it and examination of the accused after giving an opportunity to the parties to be heard. However, the stage of discharge under Section 245, on the other hand, is reached only after the evidence referred in Section 244 has been taken.

31.3. Thus, there is difference in the language employed in these provisions. But, in our opinion, notwithstanding these differences, and whichever provision may be applicable, the court is required at this stage to see that there is a prima facie case for proceeding against the accused. Reference in this connection can be made to a judgment of this Court in R.S. Nayak v. A.R. Antulay [(1986) 2 SCC 716 : 1986 SCC (Cri) 256]. The same reads as follows: (SCC pp. 755-56, para 43)

“43. ... Notwithstanding this difference in the position there is no scope for doubt that the stage at which the Magistrate is required to consider the question of framing of charge under Section 245(1) is a preliminary one and the test of ‘prima facie’ case has to be applied. In spite of the difference in the language of the three sections, the legal position is that if the trial court is satisfied that a prima facie case is made out, charge has to be framed.”

29. In the subsequent decision in the case of S. Selvi (Supra) this Court has summarised the principles while framing of the charge at the stage of Section 227/228 of the CrPC. This Court has observed and held in paragraph 6 and 7 as under:

“6. It is well settled by this Court in a catena of judgments including Union of India v. Prafulla Kumar Samal [Union of India v. Prafulla

Kumar Samal, (1979) 3 SCC 4 : 1979 SCC (Cri) 609], Dilawar Balu Kurane v. State of Maharashtra [Dilawar Balu Kurane v. State of Maharashtra, (2002) 2 SCC 135 : 2002 SCC (Cri) 310], Sajjan Kumar v. CBI [Sajjan Kumar v. CBI, (2010) 9 SCC 368 : (2010) 3 SCC (Cri) 1371], State v. A. Arun Kumar [State v. A. Arun Kumar, (2015) 2 SCC 417 : (2015) 2 SCC (Cri) 96 : (2015) 1 SCC (L&S) 505], Sonu Gupta v. Deepak Gupta [Sonu Gupta v. Deepak Gupta, (2015) 3 SCC 424 : (2015) 2 SCC (Cri) 265], State of Orissa v. Debendra Nath Padhi [State of Orissa v. Debendra Nath Padhi, (2003) 2 SCC 711 : 2003 SCC (Cri) 688], Niranjana Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya [Niranjana Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya, (1990) 4 SCC 76 : 1991 SCC (Cri) 47] and Supt. & Remembrancer of Legal Affairs v. Anil Kumar Bhunja [Supt. & Remembrancer of Legal Affairs v. Anil Kumar Bhunja, (1979) 4 SCC 274 : 1979 SCC (Cri) 1038] that the Judge while considering the question of framing charge under Section 227 of the Code in sessions cases (which is akin to Section 239 CrPC pertaining to warrant cases) has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the court discloses grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing the charge; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his rights to discharge the accused. The Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the statements and the documents produced before the court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry

into the pros and cons of the matter and weigh the materials as if he was conducting a trial.

7. In Sajjan Kumar v. CBI [Sajjan Kumar v. CBI, (2010) 9 SCC 368 : (2010) 3 SCC (Cri) 1371], this Court on consideration of the various decisions about the scope of Sections 227 and 228 of the Code, laid down the following principles: (SCC pp. 376-77, para 21)

“(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on

record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. 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.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.””

30. In the case of Mauvin Godinho (Supra) this Court had an occasion to consider how to determine prima facie case while framing the charge under Section 227/228 of the CrPC. In the same decision this Court observed and held that while considering the prima facie case at the stage of framing of the charge under Section 227 of the CrPC there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

31. At this stage the decision of this Court in the case of Stree Atyachar Virodhi Parishad (Supra) is also required to be referred to. In that aforesaid decision this Court had an occasion to consider the scope of enquiry at the stage of deciding the matter under Section 227/228 of the CrPC. In paragraphs 11 to 14 observations of this Court in the aforesaid decision are as under :

“11. Section 227 of the Code of Criminal Procedure having bearing on the contentions urged for the parties, provides:

“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 no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

12. Section 228 requires the Judge to frame charge if he considers that there is ground for presuming that the accused has committed the offence. The interaction of these two sections has already been the subject-matter of consideration by this Court. In State of Bihar v. Ramesh Singh [(1977) 4 SCC 39 : 1977 SCC (Cri) 533 : (1978) 1 SCR 257], Untwalia, J., while explaining the scope of the said sections observed: [SCR p. 259 : SCC pp. 41-42 : SCC (Cri) pp. 535-36, para 4]

Reading the two provisions together in juxtaposition, as they have got to be, it would be clear 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. Nor is any weight to be attached to the probable defence of the accused. 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. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. 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 against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage 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. In *Union of India v. Prafulla Kumar Samal* [(1979) 3 SCC 4 : 1979 SCC (Cri) 609 : (1979) 2 SCR 229], Fazal Ali, J., summarised some of the principles: [SCR pp. 234-35 : SCC p. 9 : SCC (Cri) pp. 613-14, para 10]

“(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused had been made out.

(2) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained the court will be fully justified in framing a charge and proceeding with the trial.

(3) 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 produced 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.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This

however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

14. These two decisions do not lay down different principles. Prafulla Kumar case [(1979) 3 SCC 4 : 1979 SCC (Cri) 609 : (1979) 2 SCR 229] has only reiterated what has been stated in Ramesh Singh case [(1977) 4 SCC 39 : 1977 SCC (Cri) 533 : (1978) 1 SCR 257]. In fact, Section 227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused. It provides that “the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused”. The “ground” in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate enquiry in sifting and weighing the material. Nor is it necessary to delve deep into various aspects. All that the court has to consider is whether the evidentiary material on record if generally accepted, would reasonably connect the accused with the crime. No more need be enquired into.”

21. On the above conspectus, the learned A.G.A. thus concluded that no illegality or infirmity can be attached to the framing of charge order passed by Court below. He, therefore, contended that in view of above no interference is warranted by this Court. As such, the present criminal revision is liable to be dismissed.

22. When confronted with above, the learned counsel for revisionists made a futile attempt to demonstrate that the framing of charge order passed by Court below is unsustainable in law and fact. However, he could not dislodge the factual and legal submissions urged by the learned A.G.A. in opposition to the present criminal revision.

23. Having heard the learned counsel for revisionists, the learned A.G.A. for State-opposite party-1, and upon perusal of record, this Court finds that the objections raised by the learned A.G.A. for State-opposite party-1 in opposition to this criminal revision are not only borne out from the record, but furthermore the same could not be dislodged by the learned counsel for revisionists with reference to the record. In view of above, no good ground exists to entertain the present criminal revision.

24. As a result, the present criminal revision fails and is liable to be dismissed.

25. It is, accordingly, **dismissed**.

Order Date :- 28.07.2025

Vinay