

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 644 of 2026

Reserved on: 1.10.2026

Date of Decision: 08.10.2026.

Wasim Beg

...Petitioner

Versus

State of HP

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : Mr. Naresh K. Sharma,
Advocate.

For the Respondent/State : Mr Pawan Kumar Nadda,
Additional Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the order dated 19.8.2026, passed by the learned Additional Sessions Judge, Bilaspur, H.P., (learned Trial Court), vide which the learned Trial Court dismissed the application seeking discharge.

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present petition are that Naseem Beg, the present petitioner, is running a shop near ITI Chowk. Vijay Kumar (informant), Dil Kumar, and Sandeep Kumar were present in the petitioner's shop on 2.11.2025 at about 5:15 PM. Dil Kumar was to take ₹10,000/- from the petitioner. He had an argument with the petitioner over the payment. The petitioner abused and slapped Dil Kumar. Sandeep Kumar separated both of them.

3. Vijay Kumar (the informant), Sandeep Kumar, and Dil Kumar were going towards Lower Nihal in their vehicle bearing registration No. HP-23A-6636. The petitioner followed them in his vehicle bearing registration No. HP-24E-9909. He stopped his vehicle in front of the informant's vehicle. The petitioner came out of his vehicle with a *darat* and inflicted a blow on Sandeep Kumar; however, Sandeep Kumar did not sustain any injury. The informant and Dil Kumar tried to save Sandeep Kumar, but the petitioner inflicted a blow by means of a *darat* on the informant's head. The informant tried to ward off

the blow with his hand, and his hand was slashed. The petitioner again gave two blows to the informant with the *darat*, and the informant sustained bleeding injuries. The police registered the FIR and investigated the matter. The police arrested the petitioner and recovered one *darat* based on the disclosure statement made by the petitioner. The Medical Officer found that the injuries sustained by the informant were grievous in nature, but they were not endangering life. The clothes and *darat* have been sent to the FSL, but the result is awaited. Hence, the police filed the charge-sheet before the Court.

4. The petitioner filed an application seeking discharge, asserting that he had also lodged FIR No. 272 of 2025 against the informant party for the commission of offences punishable under Section 126, Section 115(2), and Section 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita (BNS) regarding the same incident. The ingredients of Section 109 of the BNS were not satisfied. Sandeep and Dil Kumar had sustained simple injuries, whereas the informant had sustained a grievous injury which was not endangering life. Therefore, it was prayed that the petitioner be discharged.

5. The application was opposed by the State by filing a reply.

6. The learned Trial Court held that the Court is not to undertake a threadbare analysis of the materials gathered by the prosecution. Section 109(1) of the BNS focuses on the intention or knowledge behind the act and the circumstances in which the act was done; the final result is not the only test. The FIR attributed a specific act to the accused. The medical reports corroborated the informant's version. The petitioner/accused had followed the informant's vehicle, overtook it, and inflicted repeated blows upon the informant directed at his head. These circumstances *prima facie* established sufficient material to frame the charges for the commission of an offence punishable under Section 109 of the BNS. Therefore, the application was dismissed.

7. Being aggrieved by the order passed by the learned Trial Court, the petitioner/accused has filed the present petition asserting that the documents do not disclose grave suspicion, and the learned Trial Court erred in dismissing the application for discharge. There was no *mens rea*, and a cross-FIR was

lodged at the petitioner's instance. Therefore, it was prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

8. I have heard Mr Naresh K. Sharma, learned counsel for the petitioner and Mr Pawan Kumar Nadda, learned Additional Advocate General, for the respondent-State.

9. Mr Naresh K. Sharma, learned counsel for the petitioner, submitted that the allegations in the FIR are false. The petitioner/accused had also reported the matter to the police against the informant party. The Medical Officer had specifically stated that the injuries were grievous but were not endangering life. The learned Trial Court erred in framing the charges for the commission of an offence punishable under Section 109 of the BNS. Therefore, he prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

10. Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent-State, submitted that the accused had directed a blow towards the informant's head, which was prevented by the informant with his arm. The

informant sustained injuries on his arm. Had the informant not used his arm, the injury could have proved to be fatal. The truthfulness or otherwise of the material is not to be seen at this stage. Therefore, he prayed that the present petition be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. It was laid down by the Hon'ble Supreme Court in *Vishnu Kumar Shukla v. State of U.P.*, (2023) 15 SCC 502: 2023 SCC OnLine SC 1582, that the Court framing the charges has to see a *prima facie* case, and it is impermissible to examine the material threadbare to determine whether the accused is likely to be convicted or not. It was observed: -

“12. The primary consideration at the stage of framing of charge is the test of the existence of a *prima facie* case, and at this stage, the probative value of materials on record need not be gone into. This Court, by referring to its earlier decisions in the *State of Maharashtra v. Som Nath Thapa*, (1996) 4 SCC 659 and the *State of MP v. Mohan Lal Soni*, (2000) 6 SCC 338, has held that the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of the *prima facie* case. It is also held that, at the stage of framing of charge, the court has to form a presumptive opinion on the existence of factual ingredients constituting the offence alleged, and it is not expected to go deep into the

probative value of the material on record and to check whether the material on record would certainly lead to a conviction at the conclusion of the trial.

13. It was held in *Ram Prakash Chadha v. State of U.P.*, (2024) 10 SCC 651: (2025) 1 SCC (Cri) 253: 2024 SCC OnLine SC 1709 that the Court can sift and weigh the evidence to determine if a *prima facie* case exists against the accused. It was observed at page 661:

“24. In the light of the decisions referred supra, it is thus obvious that it will be within the jurisdiction of the Court concerned to sift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case against the accused concerned has been made out. We are of the considered view that a caution has to be sounded for the reason that the chances of going beyond the permissible jurisdiction under Section 227CrPC, and entering into the scope of power under Section 232CrPC, cannot be ruled out, as such instances are aplenty. In this context, it is relevant to refer to a decision of this Court in *Om Parkash Sharma v. CBI*, (2000) 5 SCC 679: 2000 SCC (Cri) 1014. Taking note of the language of Section 227CrPC, which is in negative terminology and that the language in Section 232 CrPC is in positive terminology and considering this distinction between the two, this Court held that it would not be open to the Court, while considering an application under Section 227CrPC, to weigh the pros and cons of the evidence, alleged improbability and then proceed to discharge the accused, holding that the statements existing in the case therein are unreliable. It is held that doing so would be practically acting under Section 232 CrPC, even though the said stage has not been reached. In short, though it is permissible to sift and weigh the materials for the limited purpose of finding out whether or not a *prima facie* case

is made out against the accused, on appreciation of the admissibility and the evidentiary value, such materials brought on record by the prosecution are impermissible as it would amount to denial of opportunity to the prosecution to prove them appropriately at the appropriate stage, besides amounting to exercise of the power coupled with obligation under Section 232 CrPC, available only after taking the evidence for the prosecution and examining the accused.

14. It was held in *Yuvraj Laxmilal Kanther v. State of Maharashtra*, 2025 SCC OnLine SC 520, that the Court is not to undertake a threadbare analysis of the material but to see if there is sufficient material to frame charges. It was observed:

“16. Section 227 CrPC deals with discharge. What Section 227 CrPC contemplates is that 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 are no sufficient grounds for proceeding against the accused, he shall discharge the accused and record his reasons for doing so. At the stage of consideration of discharge, the court is not required to undertake a threadbare analysis of the materials gathered by the prosecution. All that is required to be seen at this stage is that there are sufficient grounds to proceed against the accused. In other words, the materials should be sufficient to enable the court to initiate a criminal trial against the accused. It may be so that at the end of the trial, the accused may still be acquitted. At the stage of discharge, the court is only required to consider whether there are sufficient materials that can justify the launch of a criminal trial against the accused. By its very nature, a discharge is at a higher pedestal than an acquittal. Acquittal is at the end of the trial process; it may be for a technicality or on the

benefit of doubt, or the prosecution could not prove the charge against the accused; but when an accused is discharged, it means that there are no materials to justify the launch of a criminal trial against the accused. Once he is discharged, he is no longer an accused.”

15. The present petition has to be adjudicated as per the parameters laid down by the Hon’ble Supreme Court.

16. Section 109 of the BNS corresponds to Section 307 of the IPC. The Hon’ble Supreme Court held in *Surender Kumar v. State of Haryana*, 2026 SCC OnLine SC 191, that grievousness of the injury or the possibility of injury which could have led to death is not a necessary ingredient to attract Section 307 of the IPC. It was observed:

7. We are of the opinion that the grievousness of the injuries or the possibility of injury which could have led to death is not a necessary ingredient to attract Section 307. Section 307 reads thus: —

‘S. 307 Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.’

8. It has two limbs, insofar as the punishment is concerned, but only one regarding the culpability. The culpability being found if there is commission of any act with such intention or knowledge that the act could result in death, making the perpetrator guilty of murder.

As regards punishment, the accused shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to a fine, which is the first limb. The second limb provides that if such act, caused with intention or knowledge, results in hurt to any person, then the offender shall be liable either to imprisonment for life or to such punishment as provided in the first limb. Hurt, grievous or simple, is not a precondition to attract Section 307, but if there is hurt, be it simple or grievous, and the act causing such hurt is with the intention or knowledge that such act could have caused death, making the perpetrator guilty of murder, then a graver punishment is provided.

9. In *State of Madhya Pradesh v. Kashiram*(2009) 4 SCC 26 : (2009) 2 SCC (Cri) 40, this Court held that to justify the conviction under Section 307, it would be sufficient if there is intent coupled with some overt act in execution thereof. It is not essential that there should be a bodily injury capable of causing death or even an injury in the nature of simple hurt. Relying on a number of decisions, it was held that the intention to kill or knowledge that death will occur is a question of fact depending on a given case to find culpability under Section 307. The mere fact that the injury inflicted was simple or minor will not by itself rule out the application of Section 307, since the determining question is the intention or knowledge.

10. *Chimanbhai Jagabhai Patel v. State of Gujarat*(2009) 11 SCC 273 : (2009) 3 SCC (Cri) 1323 found the ingredients under Section 307 to be; (i) the overt act of the accused, (ii) the intention or knowledge; to cause a bodily injury, which he knew would likely cause death, or such bodily injury which in the ordinary course of nature would lead to death, or that act is so imminently dangerous that in all probability death would be occasioned and (iii) that the accused had no excuse for incurring the risk of causing such death or injury. ***Pasupuleti Siva Ramakrishna Rao v. State of Andhra Pradesh*(2014) 5 SCC 369; (2014) 2**

SCC (Cri) 584 differentiated the punishments, as we found in the first and second limbs. One, the intention alone leads to a punishment of 10 years, and if it is accompanied by hurt, then it extends to life imprisonment. *State of M.P. v. Saleem alias Chamaru*(2005) 5 SCC 554: 2005 SCC (Cri) 1329 categorically held that to sustain a conviction under Section 307, there is no necessity for a bodily injury capable of causing death. A simple injury caused would not, as a corollary, mean absence of intention to cause death, which intention or knowledge has to be discerned from the circumstances surrounding the crime. *State of Madhya Pradesh v. Kanha alias Omprakash* (2019) 3 SCC 605 : (2019) 2 SCC (Cri) 247 and *Jage Ram v. State of Haryana*(2015) 11 SCC 366: (2015) 4 SCC (Cri) 425 held that the absence of a fatal injury would not dislodge Section 307, but the nature or gravity of the injury and the nature of the weapon used could lead to an inference of intent and knowledge.

17. In the present case, it was specifically mentioned in the FIR that the petitioner overtook the informant's vehicle, intercepted it, and came out of the vehicle armed with a *Darat*. He inflicted an injury on Sandeep, and when Dil Kumar and the informant tried to rescue him, the petitioner tried to inflict an injury on the informant's head; however, the informant prevented the injury by lifting his hand and sustained injuries on his hand. *Prima facie*, these averments show that the *darat*, a deadly weapon, was directed towards a vital part of the body, namely, the head. Had death been caused, the petitioner would

have been guilty of murder because causing an injury to a vital part of the body by means of a deadly weapon can *prima facie* lead to an inference that the injury was caused with an intention to cause death.² Therefore, there is no infirmity in the order passed by the learned Trial Court that the material on record justified framing of charge for the commission of an offence punishable under Section 109 of the BNS.

18. It was submitted that the allegations in the FIR and the statements are incorrect. It was rightly submitted on behalf of the State that the Court framing the charges is not concerned with the correctness or otherwise of the FIR and has to accept the contents as correct. Thus, the accused cannot be discharged after recording a finding that the contents are incorrect.

19. No other point was urged.

20. In view of the above, the present petition fails and is dismissed.

21. The present petition stands disposed of and so are the pending miscellaneous applications, if any.

² It was held in *Singapagu Anjaiah v. State of A.P.*, (2010) 9 SCC 799 that causing a single injury by crowbar on the head amounts to murder.

22. The observations made hereinbefore shall remain confined to the disposal of the present petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

8th October, 2026
(Chander)