



2026:AHC:41448

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1389 of 2026

Jatindra Dhiman

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Prateek Mishra, Siddhartha Baghel
Counsel for Opposite Party(s)	:	G.A.

Court No. - 87

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the revisionist.
2. The present criminal revision has been filed against the impugned order dated 12.12.2025 passed by the learned Civil Judge (S.D.), Chhata, Mathura, in discharge application filed after submission of charge sheet against the revisionist dated 10.06.2024 arising out of Case Crime No. 414 of 2023, under sections 406, 420 I.P.C., Police Station Kosikalan, District Mathura.
3. Learned counsel for the revisionist submits that the charge sheet has been filed in great haste and the discharge application has been rejected in a cursory manner without appreciating the settled principles of law governing discharge.
4. Learned counsel for the revisionist has submitted that the impugned order dated 12.12.2025 is non-speaking and unreasoned order having been passed without assigning any cogent reason. Learned counsel for the revisionist has further submitted that the proceeding under sections 420 and 406 I.P.C. cannot run simultaneously in view of the judgment of the Hon'ble Supreme Court in **Delhi Race Club (1940) Ltd. Versus State of U.P., 2024 SCC OnLine, SC 2248**. The law laid down on the point of discharge is as follows:
5. The Supreme Court in **Sanjay Kumar Rai Vs. State of U.P. and another; 2022 (5) SCC 720** by Three Judges Bench,(Authored by Hon. Surya Kant, J) held as under:-

"12. At the outset, we may note that the High Court has dismissed the Criminal Revision on the ground of lack of jurisdiction under section 397 of Cr.P.C. The High Court did not examine the issue in detail to find out whether the continuation of proceedings will amount to abuse of process of law in this case. The impugned order cites the decision of this Court in Asian Resurfacing (supra) wherein it was noted as under:

"Thus, we declare the law to be that order framing charge is not purely

an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C. or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re- appreciate the matter."

13. It appears to us that while limiting the scope of a criminal revision to jurisdictional errors alone, the High Court apparently underappreciated the Judgment in *Asian Resurfacing* (supra). We say so at least for two reasons. First, the material facts in the abovesited case dealt with a challenge to the charges framed under the Prevention of Corruption Act, 1988 ("POCA"). The cited judgment itself enlightens that not only is POCA a special legislation, but also contains a specific bar under Section 19 against routine exercise of revisional jurisdiction. Second, This Court in *Asian Resurfacing* (Supra) while expressing concern regarding the need to tackle rampant pendency and delays in our criminal law system, followed the ratio laid down in an earlier decision in *Madhu Limaye V. State of Maharashtra* as can be seen from the following extract: "

27. Thus, even though in dealing with different situations, seemingly conflicting observations may have been made while holding that the order framing charge was interlocutory order and was not liable to be interfered with under Section 397(2) or even under Section 482 CrPC, the principle laid down in *Madhu Limaye* [*Madhu Limaye V. State of Maharashtra*, (1977) 4 SCC 551: 1978 SCC (Cri) 10] still holds the field. Order framing charge may not be held to be purely an interlocutory order and can in a given situation be interfered with under Section 397(2) CrPC or 482 Cr.P.C. or Article 227 of the Constitution which is a constitutional provision but the power of the High Court to interfere with an order framing charge and to grant stay is to be exercised only in a exceptional situation."

14. In *Madhu Limaye* (supra), this Court authoritatively held:-

"9... Sometimes the revisional jurisdiction of the High Court has also been resorted to for the same kind of relief by challenging the order taking cognizance or issuing processes or framing charge on the grounds that the Court had no jurisdiction to take cognizance and proceed with the trial, that the issuance of process was wholly illegal or void, or that no charge could be framed as no offence was made out on the allegations made or the evidence adduced in Court.

10. Even assuming, although we shall presently show that it is not so, that in such a case an order of the Court taking cognizance or issuing

processes is an interlocutory order, does it stand to reason to say that inherent power of the High Court cannot be exercised for stopping the criminal proceeding as early as possible, instead of harassing the accused up to the end? The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure the ends of justice. The label of the petition filed by an aggrieved party is immaterial.

15. The correct position of law as laid down in Madhu Limaye (supra), thus, is that orders framing charges or refusing discharge are neither interlocutory nor final in nature and are therefore not affected by the bar of Section 397 (2) of CrPC. That apart, this Court in the abovesaid cases has unequivocally acknowledged that the High Court is imbued with inherent jurisdiction to prevent abuse of process or to secure ends of justice having regard to the facts and circumstance of individual cases. As a caveat it may be stated that the High Court, while exercising its aforesaid jurisdiction ought to be circumspect. The discretion vested in the High Court is to be invoked carefully and judiciously for effective and timely administration of criminal justice system. This Court, nonetheless, does not recommend a complete hands off approach. Albeit, there should be interference, may be, in exceptional cases, failing which there is likelihood of serious prejudice to the rights of a citizen. For example, when the contents of a complaint or the other purported material on record is a brazen attempt to persecute an innocent person, it becomes imperative upon the Court to prevent the abuse of process of law.

16. Further, it is well settled that the trial court while considering the discharge application is not to act as a mere post office. The Court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on. [Union of India V. Prafulla Kumar Samal]. Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be. It is also held that discharge is a valuable right provided to the accused."

6. It is held by the Hon'ble Supreme Court in **Dr. Anand Rai Vs. State of Madhya Pradesh and another; 2026 INSC 141**. In paragraph no. 21 it held as under:-

"Before parting with the matter, it is observed that at the stage of framing of charge or considering discharge, the Court is not dealing with an abstract legal exercise. It is dealing with real people, real anxieties, and the real weight of criminal prosecution. Judicial responsibility at this stage calls for care, balance, and an honest engagement with the facts on record. The power to frame a charge is not meant to be exercised by

default or out of caution alone. When the material placed before the Court, take at the face value, does not disclose the ingredients of an offence, the law expects the Court to have the clarity and courage to say so and to keep such a case aside."

7. In view of all these facts and in view of the law laid down by the Hon'ble Supreme Court, the impugned order dated 12.12.2025 is liable to be set aside and the same is hereby set aside. Learned trial court is directed to reconsider the application for discharge afresh in accordance with law by a reasoned and speaking order and modify the charge if already framed.

8. With these observation, the present criminal revision is finally disposed of.

February 24, 2026
K.K. Maurya

(Abdul Shahid,J.)