



2026:AHC:28730

## HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2010 of 2025

Dr. Farahim

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite  
Party(s)

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Counsel for Revisionist(s) : Gyan Chandra Yadav, Sundeep Shukla  
Counsel for Opposite Party(s) : G.A.

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Court No. - 87

**HON'BLE ABDUL SHAHID, J.**

1. Heard learned counsel for the revisionist and learned A.G.A. for the State. None is present for the Opposite Party No. 2 despite service sufficient.

2. Learned counsel for the revisionist has submitted that the revisionist is a renowned doctor and he has not committed any crime or offence. He has been falsely implicated in the said case. The impugned order dated 12.3.2025 is wholly unjust and has been passed without proper application of judicial mind. By perusal of the first information report as well as the material collected by the investigating officer during investigation, there is no material which constitute the offence against the revisionist that the revisionist was not present at the place of occurrence. There is no evidence showing the presence of the revisionist. There is also no evidence that he attacked upon the deceased. The accused persons, lashed with knife and sharp edged weapons, entered into the shop of the revisionist and the revisionist could not resist their entrance. The entire material collected by the investigating officer not shown that the revisionist has committed any offence.

3. Learned counsel for the revisionist has submitted that in the additional statement of the complainant Vinod Kumar it has been stated that previously he could not know and now he has having the knowledge that Farookh and Dr. Farahim brother of Farookh and Gulab were also wanted in a murder case. Now it came to the knowledge that there is also conspiracy of Dr. Farahim in the murder of son of the complainant. Two miscreants who committed the murder are resident of mohalla of Dr. Farahim and they were associated with Dr. Farahim. The offender who has committed the murder of my son came from the side of Dr. Farahim and after murder they went to the hospital of Dr. Farahim. After committing the murder, offenders were saying that the work has done and now reach to Dr. Farahim. Dr. Farahim had provided shelter to

the offenders. Now this also came to my knowledge that the murder of my son has been performed with conspiracy and planning because the accused persons of murder were having good relation with Dr. Farahim since back. The statement of Ravi Kumar son of the complainant has also supported the version of the prosecution. Sawan son of Raju, witness of the fact also supported the version of the prosecution. The revisionist has relied on the eye witness statement of Anuj Kumar son of Pramod Kumar that on 4.8.2023 at 3.00 P.M. in the noon, Tarun, Faizan and Gulab had consistently stabbed on Rohit and one amongst them Samir was holding the hands of Rohit and other two had surrounded him and saying that whosoever came to save him they will kill him but as soon as crowd reaches at the spot, they all run away and Rohit fell down on the earth. At the time of running away from the spot, one of them said that we should go to Dr. Farahim and settle our account and then they will be meet in the evening. The half of the crowd ran away behind the voice and while running away they pull down the Rohit on earth and entered into the hospital of Dr. Farahim, which is near by the place of incident. Since we reach there, they were sit there. After seeing us, Dr. Farahim feel very uncomfortable and managed three persons away from the behind side. The crowd chases them and catch one of them namely Tarun. Since Dr. Farahim got this information, he had left the treatment of Rohit and went out side to save the Tarun. Thereafter the police came and took the Tarun on their vehicle.

4. Learned counsel for the revisionist has relied on the statement of Constable Rooman Singh and Sub Inspector Vikas Sharma that we have got the information that there was some incident of stabbing took place at Kila Bus Stand, Mawana District Meerut and the injured was admitted to Dr. Farahim's hospital.

5. Learned counsel for the revisionist has submitted that there is no corroboration in the first information report and the contents of the witnesses Constable Rooman Singh and Sub Inspector Vikas Sharma. He has further submitted that there is non compliance of Section 207 Cr.P.C.

7. Learned counsel for the revisionist has relied on the law laid down by the Hon'ble Supreme Court in the case of **Union of India Vs. Prafulla Kumar Samal and another**, reported in AIR 1979 Supreme Court, 366 and relied on paragraph Nos. 7 & 8 which is as follows:-

*" 7. Section 227 of the Code runs thus:-*

*"If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."*

*The words 'not sufficient ground for proceeding against the accused' clearly show that the Judge is not a mere post-office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind*

*to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.*

8. The scope of Section 227 of the Code was considered by a recent decision of this Court in the case of *State of Bihar v. Ramesh Singh, (1978) 1 SCR 257: (AIR 1977 SC 2018)* where *Untwalia J.* speaking for the Court observed as follows (at p. 2019):-

*"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. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial." This Court has thus held that whereas strong suspicion may not take the place of the proof at the trial stage, yet it may be sufficient for the satisfaction of the Sessions Judge in order to frame a charge against the accused. Even under the Code of 1898 this Court has held that a committing Magistrate had ample powers to weigh the evidence for the limited purpose of finding out whether or not a case of commitment to the Sessions Judge has been made out."*

8. Learned counsel for the revisionist has further relied upon the law laid down by the Hon'ble Supreme Court in the case of **Kanchan Kumar Vs. State of Bihar, AIR 2022 S.C. 4288** which relates to the Prevention of Corruption Act, hence the fact of this case is entirely different to the fact of the present case, as such, no benefit goes to the revisionist.

9. Learned counsel for the revisionist has further relied on the case of **Sajjan Kumar Vs. Central Bureau of Investigation, reported in 2011 Cr. LJ1225 (Del)** and relied on Paragraph Nos. 15,16 and 17 which is as follows:-

*"15. In Dilawar Balu Kurane (supra), the principles enunciated in Prafulla Kumar Samal (supra) have been reiterated and it was held:*

*"12. Now the next question is whether a prima facie case has been made out against the appellant. In exercising powers under Section 227 of the Code of Criminal Procedure, the settled position of law is that the Judge while considering the question of framing the charges under the said section 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 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; 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 justified to discharge the accused, and in exercising jurisdiction under Section 227 of the Code of Criminal Procedure, 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 evidence and the documents produced before the court but should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial (see Union of India v. Prafulla Kumar Samal).*

14. *We have perused the records and we agree with the above views expressed by the High Court. We find that in the alleged trap no police agency was involved; the*

*FIR was lodged after seven days; no incriminating articles were found in the possession of the accused and statements of witnesses were recorded by the police after ten months of the occurrence. We are, therefore, of the opinion that not to speak of grave suspicion against the accused, in fact the prosecution has not been able to throw any suspicion. We, therefore, hold that no prima facie case was made against the appellant."*

16. *It is clear that 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. The presumption of the guilt of the accused which is to be drawn at the initial stage is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the prosecution proposes to adduce prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial. A Magistrate enquiring into a case under Section 209 of the Cr.P.C. is not to act as a mere Post Office and has to come to a conclusion whether the case before him is fit for commitment of the accused to the Court of Session. He is entitled to sift and weigh the materials on record, but only for seeing whether there is sufficient evidence for commitment, and not whether there is sufficient evidence for conviction. If there is no prima facie evidence or the evidence is totally unworthy of credit, it is the duty of the Magistrate to discharge the accused, on the other hand, if there is some evidence on which the conviction may reasonably be based, he must commit the case. It is also clear that in exercising jurisdiction under Section 227 of Cr.P.C., the Magistrate should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*

17. *Exercise of jurisdiction under Sections 227 and 228 of Cr.P.C.*

*On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:-*

*(i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. 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 discloses 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."*

10. Learned counsel for the revisionist has further relied in the case of **Dipakbhai Jagdishchandra Patel vs. State of Gujarat, AIR 2019 SC 3363**, that is the law passed in the proceedings under Section 482 Cr.P.C. where the scope are entirely and altogether different from the present proceedings of criminal revision of which scope is very much limited and confined.

11. Learned counsel for the revisionist has further relied on the law laid down by the Hon'ble Supreme Court in the case of **P. Gopalkrishnan alias Dileep Vs. State of Kerala, AIR 2020 Supreme Court (1)** and submitted that there is no compliance of Section 207 Cr.P.C. There is no pen drive has been supplied hence he has not got the proper and ample opportunity. He relied on Paragraph Nos. 14 and 15, which is as follows:-

*"14. Concededly, as regards the "documents" on which the prosecution proposes to rely, the investigating officer has no option but to forward "all documents" to the Magistrate alongwith the police report. There is no provision (unlike in the case of "statements") enabling the investigating officer to append a note requesting the Magistrate, to exclude any part thereof ("document") from the copies to be granted to the accused. SubSection (7), however, gives limited discretion to the investigating officer to forward copies of all or some of the documents, which he finds it convenient to be given to the accused. That does not permit him to withhold the remaining documents, on which the prosecution proposes to rely against the accused,*

*from being submitted to the Magistrate alongwith the police report. On the other hand, the expression used in Section 173(5)(a) of the 1973 Code makes it amply clear that the investigating officer is obliged to forward "all" documents or relevant extracts on which the prosecution proposes to rely against the accused concerned alongwith the police report to the Magistrate.*

15. *On receipt of the police report and the accompanying statements and documents by virtue of Section 207 of the 1973 Code, the Magistrate is then obliged to furnish copies of each of the statements and*

documents to the accused. Section 207 reads thus:

*"207. Supply to the accused of copy of police report and other documents.-In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:-*

*(i) the police report;*

*(ii) the first information report recorded under section 154;*

*(iii) the statements recorded under subsection (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under subsection (6) of section 173;*

*(iv) the confessions and statements, if any, recorded under section 164;*

*(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under subsection (5) of section 173:*

*Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:*

*Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court."*

*As regards the statements, the first proviso enables the Magistrate to withhold any part thereof referred to in clause (iii), from the accused on being satisfied with the note and the reasons specified by the investigating officer as predicated in subsection (6) of Section 173. However, when it comes to furnishing of documents submitted by the investigating officer alongwith police report, the Magistrate can withhold only such document referred to in clause (v), which in his opinion, is "voluminous". In that case, the accused can be permitted to take inspection of the concerned document either personally or through his pleader in Court. In other words, Section 207 of the 1973 Code does not empower the Magistrate to withhold any "document" submitted by the investigating officer alongwith the police report except when it is voluminous. A fortiori, it necessarily follows that even if the investigating officer appends his note in respect of any particular document, that will be of no avail as his power is limited to do so only in respect of 'statements' referred to in subsection (6) of Section 173 of the 1973 Code."*

12. In the statement recorded during the investigation, all the witnesses of fact including the Opposite Party No. 2/complainant who is the father of the deceased has supported the prosecution version and recorded their statement in support of the prosecution and against the revisionist. The statement of the formal witnesses S.I. Vikash Sharma and Constable Rooman Singh have safeguard one of the accused Tarun and to save from the crowd they took him alongwith them. The witnesses of facts supported the prosecution story and recorded their statement against the revisionist.

13. After duly investigation of the matter, the charge-sheet has been filed

against the accused-revisionist. The allegation of the offences and evidences collected during the investigation are very serious in nature. There is consistency of the fact witnesses who has recorded their statement and the charge-sheet has been filed. Any final interpretation or the appreciation of the fact or any deficiency in the prosecution story, if any, that could be appreciated after the completion of the entire evidence. At this stage, there appears to be sufficient evidence to initiate the trial against the revisionist. There is no illegality or irregularity in the impugned order.

14. The instant criminal revision is liable to be dismissed. It is accordingly **dismissed**.

(Abdul Shahid,J.)

**February 9, 2026**

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