

In the High Court of Punjab and Haryana at Chandigarh

CRR No. 1757 of 2015 (O&M)

Date of Decision: May 14, 2015

Jagdish and others

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present: Mr. V. Ramswaroop, Advocate,
for the petitioners.

Paramjeet Singh, J. (Oral)

Instant revision petition has been filed by the petitioners against the impugned order dated 17.04.2015 passed by learned Additional Sessions Judge-I, Fatehabad, whereby charges have been framed under Sections 148, 307, 429, 506 IPC read with Section 149 IPC against the petitioners.

Brief facts of the case are that Salochana Devi – complainant has got registered an FIR No. 357 dated 13.10.2011, under Sections 307, 429, 506 IPC and 25/27 of the Arms Act, at Police Station Ratia, District Fatehabad against the petitioners and their co-accused. After the investigation, challan was submitted against the petitioners and other co-accused. Vide impugned order dated 17.04.2015, the trial Court has

framed the charges under Sections 148, 307, 429, 506 read with Section 149 IPC against the petitioners. Hence, this criminal revision petition.

I have heard learned counsel for the petitioners and perused the record.

Vide impugned order dated 17.04.2015, learned Additional Sessions Judge has observed as under:-

“Heard. Finding a prima facie case u/s 148/307/429/506 read with Section 149 IPC against all the accused and u/s 30 of Arms Act against accused Raj Kumar and Satpal, they have been charge-sheeted thereunder to which they plead not guilty and claimed trial. PWs mentioned at Sr. No.1 and 2 be summoned for 14.05.2015.”

It is settled law that the Court is not required to examine the evidence minutely at the stage of framing of charge and even a grave suspicion is enough. The Court is required to see whether the allegations against the accused, prima facie appear to be true.

Hon'ble Supreme Court in Supdt. And Remembrancer of Legal Affairs, West Bengal vs. Anil Kumar Bhunja and another, 1980 AIR (SC) 52 held as under:-

“18. It may be remembered that the case was at the stage of framing charges; the prosecution evidence had not yet commenced. The Magistrate had, therefore, to consider the above question on a general consideration of the materials

*placed before him by the investigating police officer. At this stage, as was pointed out by this Court in **State of Bihar v. Ramesh Singh, AIR 1977 SC 2018**, the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. The standard of test, proof and judgment which is to be applied finally before finding the accused guilty or otherwise, is not exactly to be applied at the stage of Section 227 or 228 of the Code of Criminal Procedure, 1973. At this stage, even a very strong suspicion founded upon materials before the Magistrate, which leads him to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged; may justify the framing of charge against the accused in respect of the commission of that offence.”*

In **State of Maharashtra v. Som Nath Thapa, etc.**

1996 (2) RCR (Criminal) 480, Hon’ble Supreme Court observed as under:-

“33. The aforesaid shows that if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the Court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage.”

In **State of M.P. v. Sudhir Pingle, 2000(1) RCR**

(Criminal) 523, it was observed as under:

“4. In our view, it is apparent that the entire approach of the High Court is illegal and erroneous. From the reasons recorded by the High Court, it appears that instead of considering the prima facie case, the High Court has appreciated and weighed the materials on record for coming to the conclusion that charge against the respondents could not have been framed. It is settled law that at the state of framing the charge, the Court has to prima facie consider whether there is sufficient ground for proceedings against the accused. The Court is not required to appreciate the evidence and arrive at the conclusion that the material produced are sufficient or not for convicting the accused. If the Court is satisfied that a prima facie case is made out for proceeding further then a charge has to be framed. The charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged by cross-examination or rebutted by defence evidence, if any, cannot show that accused committed the particular offence. In such case, there would be no sufficient ground for proceeding with the trial. In **Niranjan Singh Karam Singh Punjabi etc. v. Jitendra Bhimraj Bijjayya and others etc.** 1991 (1) RCR (CrL.) 89: 1990 (4) SCC 76, after considering the provisions of Sections 227 and 228, Cr.P.C., Court posed a question, whether at the stage of framing the charge, trial Court should marshal the materials on the record of the case as he would do on the conclusion of the trial? The Court held that at the stage of framing the charge inquiry must necessarily be limited to deciding if the facts emerging from

*such materials constitute the offence with which the accused could be charged. The Court may peruse the records for that limited purpose, but it is not required to marshal it with a view to decide the reliability thereof. The Court referred to earlier decisions in **State of Bihar v. Ramesh Singh**, 1977 (4) SCC 39, **Union of India v. Prafulla Kumar Samal**, 1979 (3) SCC 4 and **Supdt. and Rememberancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja**, 1979 (4) SCC 274, and held thus:”*

“From the above discussion it seems well settled that at the Sections 227-228 stage 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 disclose the existence of all the ingredients constituting the alleged offence. The Court may for this limited purpose sift (sift ?) the evidence as it cannot be expected even at the 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.”

In another judgment of Hon’ble Apex Court in **Sanghi Brothers (Indore) Pvt.Ltd., v. Sanjay Chaudhary and ors.** 2008 (4) RCR (Criminal) 640, on the question of framing of charge, the Hon’ble Supreme Court observed as under:

“11. The present case is not one where the High Court ought to have interfered with the order of framing the charge. As rightly submitted by learned counsel for the appellant, even if there is a strong suspicion about the commission of offence

and the involvement of the accused, it is sufficient for the court to frame a charge. At that stage, there is no necessity of formulating the opinion about the prospect of conviction. That being so, the impugned order of the High Court cannot be sustained and is set aside. The appeal is allowed.”

This Court in **Sukhdev Singh vs. Ajaib Singh and others, 1991(3) Recent Criminal Reports, 20** has also observed that at the stage of framing of charge, evidence is not to be meticulously judged. Only a prima facie case is required to be seen.

Hence, in view of the aforementioned authoritative pronouncements, learned trial court is only to see prima facie case at the time of framing of charge and if the Court thinks that the accused might have committed the offence, it can frame the charge and probative value of the material on the record is not required to be considered at this stage and that the material brought on the record by the prosecution has to be accepted as true at this stage.

In view of this, I do not find any illegality or perversity in the impugned order.

Dismissed.

May 14, 2015
vkd

[Paramjeet Singh]
Judge