

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Revision No.667 of 2018 (O&M)
Date of Decision : 21.02.2018**

Karnail Singh and others

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. J.SJaidka, Advocate
for the petitioners.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioners have preferred the instant revision petition against the charge sheet and the order dated 24.11.2017, passed by the learned Addl. Sessions Judge, Sirsa, vide which charges under Sections 148, 149, 323, 324, 341, 326, 307, 325 and 506 have been framed against them.

A bare perusal of the FIR transpires that the petitioners Karnail Singh, Raju, Ravi alias Thandu, Rama and Chhinder Pal forcibly entered the house of complainant/injured Chetan Singh. Then petitioner Karnail Singh inflicted a *gandasi* blow on the head of complainant and Raju had given stick blow on his hand.

After completion of investigation, final report under Section 173 Cr.P.C. was submitted.

After hearing the parties, the learned trial court framed the impugned charge against the petitioners.

I have heard learned counsel for the parties and have gone through the record.

Framing of charge is a precious safeguard, so to express, pre-legal battle protection conferred upon the accused by the legislature.

It is settled law that the charge-sheet constitute prima- facie evidence constituting the offence for proceeding further in the matter. Necessary, therefore, the Court has to look into the relevant law and the allegations made in the charge-sheet and then consider whether any offence has been committed to frame charges for trial before discharging the accused.

Only prima facie case is to be seen and the aspect as to whether the case is beyond reasonable doubt, is not to be seen at this stage. If the Court comes to the conclusion that the commission of offence is a probable consequence, a case for framing charge exists, at the stage of framing charges, the probative value of material on record cannot be gone into at this stage.

Thus, at the stage of framing of charges the Court has to see if there is sufficient ground for presuming that the accused has committed an offence. If the answer is in affirmative, the order of discharge cannot be passed and the accused has to face trial.

However, the Court is bound to discharge the accused in the following cases:-

- a) *Where the evidence produced is not sufficient ;*
- b) *Where there is no legal ground for proceeding against the accused ;*

- c) Where no sanction has been obtained ;*
- d) Where the prosecution is clearly barred by limitation ; or*
- e) Where he is precluded from proceeding because of a prior judgment of high court.*

In the case in hand, Karnail Singh was armed with a *gandasi* which is a deadly weapon. He had chosen the vital part of the body i.e. head and given blow from its sharp side. The intention of Karnail Singh is fully established as he made an attempt to murder the victim. Apart from it, a charge can be alternated at any stage. To the mind of this court, the impugned order and chargsheet do not suffer from any illegality, irregularity or infirmity , therefore, the same do not call for interference and are hereby affirmed.

In view of my aforesaid discussion, the instant petition being devoid of any merit is dismissed.

However, nothing expressed above will affect the merits of the case.

21.02.2018
mamta-M

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No