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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 1st May, 2019

Date of Decision: 13th May, 2019

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CRL.REV.P. 513/2019 & CRL.M.A. 9286/2019

AMIT

..... Petitioner

Through: Mr.Saurabh Jhamb and
Mr.C.M. Arif, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr.Panna Lal Sharma, APP
with SI Hukam Chand, PS
Mehrauli, Delhi

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

CHANDER SHEKHAR, J.

1. This criminal revision petition assails the order dated 31.01.2019 (hereinafter to be referred as the 'impugned order') passed by the Special Judge-NDPS/ASJ (South), Saket Courts, New Delhi (hereinafter to be referred as 'the Trial Court') in FIR No. 429/2018, registered at Police Station: Mehrauli, South Delhi, whereby charge was framed against the petitioner under Sections 186/353/307/482/34 of the Indian Penal Code, 1860 (hereinafter to be referred as 'the IPC') and Sections 27 of the Arms Act, 1959 (hereinafter to be referred as 'the Arms Act') and 34 of the IPC. A prayer has been made to set aside the said impugned order.

2. Briefly stated, the case of the prosecution is that on 11.07.2018, at about 8:00 AM, at Main Road, Chattarpur Mandir to CDR Chowk,

near Hanuman Mandir, Chattarpur, Delhi, the two accused persons were riding a motorcycle No. DL 5SAT 1320 and they were intercepted by the police officers. It is alleged that, ASI Jitender and Ct. Naveen had hit the motorcycle of the accused persons due to which they fell down and subsequently, the two accused persons took off their helmets and threw them on the police officers. Further, it is alleged that the pillion rider had fired on ASI Jitender with his pistol and the bullet passed near the left shoulder of ASI Jitender. Thereafter, the other police officers also proceeded towards the accused persons and upon seeing them, the person who was driving the motorcycle also took out a pistol and fired two rounds towards the police. Thereafter, he jumped the road divider and ran towards the colony. Consequently, SI Rakesh, Ct. Kamaldeep, HC Ashok and Ct. Narender chased him. The pillion rider was overpowered by ASI Jitender and Ct. Naveen and they further snatched the pistol from his hand. The accused disclosed his name as Vineet Verma, son of Shri Suresh Chand Verma. Thereafter, HC Ashok and others returned and informed that the associate of the accused Vineet Verma, had snatched the motorcycle from a person and had fled towards Lado Sarai. On checking the pistol of Vineet Verma, two live cartridges were found and one fired round was also found near their motorcycle. Thereafter, the police conducted personal search of Vineet Verma and recovered a broken chain of yellow metal. The accused disclosed that he had snatched the chain at Sainik Farms, soon before being apprehended. On inquiry, the accused also disclosed that the motorcycle being used by him and his associate was a stolen motorcycle which he had

purchased from a thief. Further, it was discovered by the police that the original number of the motorcycle was DL 5SAZ 7241 and the accused persons were using a fake number plate of DL 5SAT 1320. The name of the associate of the accused Vineet Verma was disclosed as Amit, son of Shri Kalyan. ('the petitioner', herein).

3. Thereafter, the afore-said FIR No. 429/2018, was registered at Police Station: Mehrauli, South Delhi, under Sections 186, 353, 307, 482 and 34 of the IPC and Sections 25, 27 and 59 of the Arms Act against the accused persons.

4. Subsequently, investigation was carried out and the accused Vineet was arrested. Whilst searching his house the police recovered six yellow metal chains and the accused disclosed that he had snatched those chains with the help of the petitioner. A perusal of the impugned order also reveals that a pistol containing two live cartridges was recovered from the house of the petitioner.

5. Thereafter, on 27.07.2018, the petitioner had surrendered before the Trial Court and his PC remand was obtained.

6. Subsequently, on 31.1.2019, the Trial Court after hearing both the parties and after perusing the material on record, passed the aforesaid impugned order on the point of charge and charge was framed against both the accused persons under Sections 186/353/307/482/34 of the IPC r/w Sections 27 of the Arms Act and 34 of the IPC.

7. Aggrieved, the petitioner has preferred the present criminal revision petition against the afore-said order on charge passed by the Trial Court.

8. I have heard the learned counsel for the parties, perused the record and have also gone through the documents filed by them.

9. Learned counsel for the petitioner vehemently contended that there is no material on record to justify the framing of charge against the petitioner by the Trial Court and hence the order on charge is liable to be set aside.

10. Learned counsel for the petitioner further contended that the Trial Court has failed to appreciate the fact that the prosecution has not recorded the statement of any police official that after surrender and arrest of the petitioner in the Court, he was identified by them as the person who had fired on them and had fled from the spot leaving the co-accused Vineet Verma behind.

11. Learned counsel for the petitioner submitted that as per the allegations and material on record, at most, the charge under Section 25 of the Arms Act is only made out against the petitioner for the alleged recovery of the pistol and two live cartridges.

12. On the other hand, learned APP for the State submitted that there is prima-facie case against the arraigned accused persons for the offences under Sections 186/353/307/482/34 of the IPC and Sections 27 of the Arms Act and 34 of the IPC.

13. At this juncture, I would like to reproduce certain paragraphs of the impugned order which reads as under:

“6. I have considered the arguments and I have perused the record. It is not mandatory to record supplementary statement or the statements u/s 161 Cr.P.C. The IO SI Rajiv as well as ASI Jitender were present before the Court of Ld. MM when the

accused Amit @ Sonu was taken on PC. Ld. Counsel for the accused has submitted that they stated they did not require their TIP. They already seen him at the spot, the co-accused disclosed his name and address and also identified him for the dossier. Therefore, the failure of the IO to specifically write that the police officers identified the accused Amit @ Sonu as the same person who had fled from the spot on 11.07.2018 is not material at this stage. At the stage of framing of charge, only prima facie view is to be taken.

7. By throwing their helmets on the police officers, firing upon them and resisting the apprehension, both accused persons committed offence u/s 186 IPC. Both of them threw their helmets on the police officers and fired on them from pistols. The assault was committed to deter the public servant (Police officers) from discharging their duty. Thereby both accused persons committed offence u/s 353 IPC. The accused Vineet Verma fired on ASI Jitender on being exhorted by the co-accused Amit to kill them. The bullet missed ASI Jitender. The accused Amit @ Sonu also fired two rounds towards the police officers. He had already exhorted the co-accused to kill the police officers. Thereby the accused Amit @ Sonu also committed offence u/s 307 IPC. Both accused were using stolen motorcycle with a fake number plate. In the charge sheet section 411 IPC has not been mentioned for possession and use of the stolen motorcycle which was recovered at the spot with a fake number plat. Ld. Counsel for both the accused submit that in respect of theft of the motorcycle, FIR was

registered in PS-Gakal Puri and the same has been compounded by the accused Vineet Verma. Police has also not recorded the statement of the owner of the motorcycle in this case which may justify framing of the charge u/s 411 IPC in this case. However, by using the fake number plate, both accused persons committed offence u/s 482 IPC. On 11.07.2018, both of them used firearms without license and thereby they committed offence punishable u/s 27 Arms Act. For framing the charge u/s 27 Arms Act which involves violation of Section 7 of the Arms Act, sanction u/s 39 Arms Act is not required. Therefore, charge is liable to be framed against both of them u/s 27 Arms Act also. The FSL report and the sanction u/s 39 Arms Act for the offence u/s 25 Arms Act are still awaited and therefore, charge cannot be framed against the accused u/s 25 Arms Act. All these offences were committed by them in furtherance of their common intention and therefore section 34 IPC will also apply.

8. In view of the above discussion, charge is framed against both accused persons u/s 186/353/307/482/34 IPC r/w section 27 Arms Act and 34 IPC to which they plead not guilty and claim trial.”

14. It would be now appropriate to refer to the judgments of the Apex Court and the different High Courts, wherein the principles of framing of charge and discharge has been laid down.

15. The Supreme Court has recently in the case titled *Dipakbhai Jagdishchandra Patel vs State of Gujarat and Another*, decided on

24.4.2019 in Criminal Appeal No. 714 of 2019 made observations regarding the law relating to framing of charge and discharge and has held that all that is required is, that the Court must be satisfied that with the material available, a case is made out for the accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be such as can be translated into evidence at the stage of trial. Relevant paragraphs of the said judgment is reproduced below:

“13. We may profitably, in this regard, refer to the judgment of this Court in *State of Bihar v. Ramesh Singh*, AIR 1977 SC 2018 wherein this Court has laid down the principles relating to framing of charge and discharge as follows:

Reading Sections 227 and 228 together in juxtaposition, as they have got to be, it would be clear that at the beginning and initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the Accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the Accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the Accused is not exactly to be applied at the stage of deciding the matter Under Section 227 or Section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the Accused or whether the trial is sure to end in his conviction.

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.

If the scales of pan as to the guilt or innocence of the Accused are something like even at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order Under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have to be made will be one Under Section 228 and not Under Section 227.

...

21. At the stage of framing the charge in accordance with the principles which have been laid down by this Court, what the Court is expected to do is, it does not act as a mere post office. The Court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the prosecution. The sifting is not to be meticulous in the sense that the Court dons the mantle of the Trial Judge hearing

arguments after the entire evidence has been adduced after a full-fledged trial and the question is not whether the prosecution has made out the case for the conviction of the Accused. All that is required is, the Court must be satisfied that with the materials available, a case is made out for the Accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be such as can be translated into evidence at the stage of trial. The strong suspicion cannot be the pure subjective satisfaction based on the moral notions of the Judge that here is a case where it is possible that Accused has committed the offence. Strong suspicion must be the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the *prima facie* view that the Accused has committed the offence.”

16. The Apex Court in the matter of ***Union of India vs. Prafulla Kumar Samal and Ors.***, AIR 1979 SC 366 has held that the Court has the power to sift and weigh the evidence for the limited purpose of finding out whether a *prima-facie* case against the accused is made out or not. It has been further held that where the materials placed before the Court disclosed a 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, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him gives rise to some suspicion, but not grave suspicion against the accused, he will be fully within his right to discharge the accused. It is a settled law that the presumption howsoever strong cannot take place of proof. Relevant portion of the afore-mentioned judgment is reproduced here-under:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code 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:

(2) 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.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however 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 within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post Office or a mouth-piece 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 appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

17. Further, the Supreme Court in the case titled *Chitresh Kumar*

Chopra v. State (Govt. of NCT of Delhi), AIR 2010 SC 1446 has held as under:

“18.....It is trite that at the stage of framing of charge, 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 or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for "presuming" that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.”

18. Discussing the law on consideration of charge, a Co-ordinate Bench of this Court in ***C.P. Malik and Ors. vs. State***, (1999) 81 DLT 92 has held as under:

“5. At the stage of framing charge the allegations made in the complaint/FIR and other material relied by the police in report under Section 173 Cr.P.C. only has to be taken into consideration taking the evidence collected on its face value. At this stage the Court is not expected to screen evidence or to apply the standard as to whether the prosecution will be able to prove the case against the accused on trial.”

19. In ***Kanti Bhadra Shah and Ors. vs. The State of West Bengal***, AIR 2005 SC 522, it has been observed by the Supreme Court that if the Trial Court decides to frame a charge, there is no legal requirement

that he should pass an order specifying the reasons as to why he opts to do so. Framing of charge itself is prima facie order that the Trial Judge has formed the opinion, upon considering the police report and other documents and after hearing both sides, that there is ground for presuming that the accused has committed the offence concerned. It has been further observed by the Apex Court that Section 239 of the Cr. PC., requires a Magistrate to record his reasons for discharging the accused but there is no such requirement if he forms the opinion that there is ground for presuming that the accused had committed the offence which he is competent to try. In such a situation, he is only required to frame a charge in writing against the accused. Relevant paragraphs of the said judgment read as under:

“8. We wish to point out that if the trial Court decides to frame a charge there is no legal requirement that he should pass an order specifying the reasons as to why he opts to do so. Framing of charge itself is prima facie order that the trial Judge has formed the opinion, upon considering the police report and other documents and after hearing both sides, that there is ground for presuming that the accused has committed the offence concerned.

Chapter XIX deals with provisions for trial of warrant cases instituted on police report. Section 239 reads thus:

239. When accused shall be discharged.- (1)
If, upon considering the police report and the documents sent with it under Section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the

Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

9. The said Section shows that the Magistrate is obliged to record his reasons if he decides to discharge the, accused. The next section (Section 240) reads thus:

240. Framing of charge.- (1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

10. It is pertinent to note that this section required a Magistrate to record his reasons for discharging the accused but there is no such requirement if he forms the opinion that there is ground for presuming that the accused had committed the offence which he is competent to try in such a situation he is only required to frame a charge in writing against the accused.”

20. In ***Ram Kishore vs. State and Ors.***, RLW 2008 (3) Raj 2440, it has been held that at the stage of framing of charge, the Court is merely required to evaluate the materials and documents on record with a view to finding out if the facts emerging there-from taken at their face value, disclose the existence of all the ingredients

constituting the alleged offence. Relevant paragraph of the said judgment is reproduced below:

“5.The Supreme Court in *Niranjan Singh*, *supra* had laid down the guidelines to be followed by the trial Court at the time of framing of the charge. The Supreme Court in the aforesaid case clearly held that Section 227 of the Code of Criminal Procedure casts a duty on the Court to apply its mind to the material on record and if on examination of the record, the Court does not find sufficient ground for proceeding against the accused, it must discharge him. On the other hand if after such consideration and hearing the Court is satisfied that a *prima facie* case is made out against the accused, it must proceed to frame a charge as required by Section 228 of the Code. At the stage of framing of charge, the Court is merely 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 the evidence, but at that stage it is not required to marshal the evidence with a view to separating the grain from the chaff. The Supreme Court in an earlier judgment in *Union of India v. Prafulla Kumar Samal*, 1979 CriLJ 154 , that under Section 227 of the Code, 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 him, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial. The Supreme Court in *Superintendent & Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja*, 1979 CriLJ 1390 made somewhat

similar observations when it held that the standard of test, proof and judgment to be applied finally before finding the accused guilty or otherwise, is not exactly to be applied at the stage of Section 227 and 228 of the Code of Criminal Procedure. At that 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.”

21. Further, in the case titled ***Prashant Bhaskar v. State (Govt. of NCT of Delhi)*** in Crl. Rev. P. No. 385/2009 decided on 22.09.2009 this Court held as under:

"17. It needs no elaboration that at the stage of framing of charge, the court is required to evaluate the materials and documents which have been placed on record by the prosecution and taken at the face value, whether existence of the ingredients constituting the alleged offence or offences are disclosed. It is for this limited purpose alone that the court is permitted to sift the evidence..."

22. In the matter of ***Anoop Singh vs. State***, another Co-ordinate Bench of this Court in Crl. Rev. No. 262/2016 decided on 12.05.2017, after going through the conspectus of decision on the issue has summed up the following parameters to be taken into account at the time of framing of charge and the revisional jurisdiction of the High Court; and the powers exercisable by the High Court in revisional jurisdiction whilst dealing with an order on charge as under:

“88. ... (i) The jurisdiction of the Trial Court whilst exercising power under Section 227 of the CrPC is limited.

(ii) At the stage of charge, the Trial Court has to merely peruse the evidence in order to find out whether there is a sufficient ground for proceeding against the accused or not.

iii) If upon consideration of the material placed before it, the Trial Court is satisfied that a prima facie case is made out against the accused, it must proceed to frame charge in terms of Section 228 of the CrPC.

(iv) The Trial Court cannot conduct a roving and fishing inquiry into the evidence or a meticulous consideration thereof at this stage. Marshalling and appreciation of evidence, and going into the probative value of the material on record, is not in the domain of the Court at the time of framing of charges.

(v) In other words, at the beginning and the initial stage of the trial, the truth, veracity and effect of the evidence which the prosecution proposes to adduce are not to be meticulously judged, and nor is any weight to be attached to the probable defence of the accused. Thus, a ‘mini trial’ is not to be conducted.

(vi) It is not obligatory for the Trial Court at the time of framing of charges, to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the CrPC.

(vii) Thus, it is axiomatic that at the initial stage if there is a strong/grave 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.

(viii) The Trial Court may sift the evidence to determine whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence or not.

(ix) Detailed orders are not necessary whilst framing charges and contentious issues are not required to be answered by the Trial Court at the stage of framing of charges.

(x) Only in a case where it is shown that the evidence which the prosecution proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by defence evidence cannot show that the accused committed the crime, then and then alone the Court can discharge the accused.

(xi) Further, if the scales of pan as to the guilt or innocence of the accused are something like even at the initial stage of making an order under Section 227 or Section 228, then, in such a situation, ordinarily and generally, the order which will have to be made will be one under Section 228 and not under Section 227 of the CrPC.

(xii) The provisions of section 397 of the CrPC empower the High Court with supervisory jurisdiction to consider the correctness, legality or propriety of any finding, sentence or order and as to the regularity of the proceedings of any inferior court.

(xiii) Revisional jurisdiction is severely restricted, and ought not to be exercised in a routine and casual manner. It has to be exercised, normally, without dwelling at length upon the facts and appraising the evidence of the case.

(xiv) Further, the Court in revision ought to refrain from substituting its own conclusion on an elaborate consideration of evidence.

(xv) Whilst in revisional jurisdiction, the High Court cannot enter into the realm of appreciation of evidence at the stage of the framing of the charges itself.

(xvi) The High Court, under statutory obligation, ought to be loath in interfering at the stage of framing the charges against the accused, merely on hypothesis, imagination and far-fetched reasons which in law amount to interdicting the trial against the accused person. Thus, self-restraint on the part of the High Court should be the rule unless there is a glaring injustice staring the Court in the face.

(xvii) Revisional powers could be exercised only when it is shown that, (a) there is a legal bar against the continuance of the criminal proceedings; (b) the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged; (c) Where the exercise of revisional power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts.

(xviii) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed *prima facie*.

23. In *Munna Devi vs. State of Rajasthan and Ors.*, AIR 2002 SC 107, it has been held by the Supreme Court as under:

“3. ...The revision power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the First Information Report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged. This Court in *Kanti Bhadra Sha & Anr. v. State of West Bengal*, 2000 CriLJ 746 has held that there is no legal requirement for the trial court to write a reasoned or lengthy order for framing the charges.

4. In the instant case the learned Judge ignored the basic principles which conferred the jurisdiction upon the High Court for exercise of revisional powers. It was premature for the High Court to say that the material placed before the trial court was insufficient for framing the charge or that the statement of the prosecutrix herself was not sufficient to proceed further against the accused-respondent.”

24. In *State of Maharashtra vs. Salman Salim Khan and Ors.*, AIR 2004 SC 1189, the Supreme Court has held as under:

“13. We are of the opinion that though it is open to a High Court entertaining a petition under Section 482 of the Code to quash charges framed by the trial court, same cannot be done by weighing the correctness or sufficiency of evidence. In a case praying for quashing of the charge, the principle to be adopted by the High Court should be that if the entire evidence produced by the prosecution is to be believed, would it constitute an offence or not. The truthfulness, the sufficiency and acceptability of the material produced

at the time of framing of charge can be done only at the stage of trial.”

25. The Court at the stage of framing of charge is not required to meticulously weigh the evidence and the prima-facie view of the matter is to be taken into consideration. If the criminal Court, on consideration of the material on record finds that a prima-facie case is made out and/or grave suspicion exists about the involvement of the accused in the crime alleged, it is expected to frame the charge and put the accused on trial. At such a initial stage of the trial, the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not required to be meticulously judged, all that is required is, that the Court must be satisfied that with the material available, a prima-facie case is made out for the accused to stand trial. The material must be such as can be translated into evidence at the stage of trial and the grave or strong suspicion must be premised on some material which commends itself to the Court as sufficient to entertain the prima-facie view that the accused has committed the offence and if the Court is satisfied that a prima-facie case is made out against the accused, it must proceed to frame a charge in terms of Section 228 of the Cr.P.C.

26. Reverting back to the submission of the learned counsel for the petitioner, I do not find any substance in his contention that the charge ought not to have been framed against the petitioner since the prosecution has failed to record the statement of any police official that after surrender and arrest of the petitioner in the Court, he was identified by them as the person who had fired on them and had fled

from the spot leaving the co-accused Vineet Verma behind since the Trial Court has already dealt with the contention regarding Test Identification Parade in its impugned order and I do not find any flaw therein.

27. I also do not find any substance in the submission of the learned counsel for the petitioner that prima-facie there is no material on record to justify the framing of the charge against the petitioner by the Trial Court and hence the order on charge is liable to be set aside.

28. This Court is of the opinion that the Trial Court has rightly taken into consideration the prima-facie view of the matter and has undoubtedly applied its judicial mind while passing the impugned order, taking into consideration, the material on record, while coming to the conclusion of framing the charge against the petitioner.

29. It cannot be said at this stage that the conclusion arrived at by the Trial Court is unreasonable or unjustified calling for the interference of this Court in exercise of revisional jurisdiction.

30. The material on the record demonstrates that prima-facie offence in this case, under Sections 186/353/307/482/34 of the IPC and Sections 27 of the Arms Act and 34 of the IPC, stands made out against the petitioner.

31. I do not find any infirmity or flaw in the impugned order passed by the Trial Court. Accordingly, the petition is dismissed. Pending application is also dismissed.

32. It is clarified that this Court has not expressed any opinion on the merits of the case and whatever is observed and stated hereinabove is solely for the purpose of the disposal of the present petition and

shall not tantamount to any expression on the merits of the case.

CHANDER SHEKHAR, J

MAY 13, 2019/rk

