

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

112.

CRR No.434 of 2024 (O&M)

Date of Decision:04.03.2024

Nirmaljit Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tegbir Singh Dhillon, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed under Section 401 Cr.P.C. against the impugned order dated 23.01.2024 passed by the learned Additional Sessions Judge, Patiala in FIR No.50 dated 15.05.2023 registered under Sections 302, 307 IPC and Section 25 of the Arms Act at Police Station Anaj Mandi, District Patiala whereby charges have been framed under Sections 302, 307 IPC and Section 27 of the Arms Act against the petitioner.

2. Learned counsel for the petitioner *inter alia* contends that the investigating agency after conducting a detailed investigation has concluded that the offence under Section 304 IPC is made out, however, at the time of presentation of final report under Section 173 Cr.P.C., the learned Public Prosecutor has raised objection that the offence under Section 302 IPC is made out. As such, the challan was filed under Section 302 IPC only on the objection raised by the learned Public Prosecutor. Otherwise, it is a case of grave and

sudden provocation and at the most, it would attract offence under Section 304 IPC.

3. Having heard learned counsel for the petitioner and after perusing the record of the case, this Court finds no force in the argument advanced by the counsel for the petitioner. It is trite law that at the time of framing of charges, the degree of satisfaction required is only to ascertain the existence of a *prima facie* case. The trial Court is not required to start a mini trial to adjudicate upon the probative value of the evidence available on record. The trial Court at this stage is only to form a presumptive opinion with regard to existence of the factual ingredients breaching the threshold of the offence alleged. At the stage of formation of opinion under Section 227, 239 and 240 of Cr.P.C, the trial Court is not required to weigh the probative value of the material brought on record in the golden scale or to presume the prosecution story as a gospel truth. The nature and degree of evaluation at this stage is limited to determine whether a *prima facie* case exists depending upon the facts of each case and as such, there is no requirement to go deep into the probative value of material on record. The trial Court is only required to evaluate whether there is a ground for presuming that the accused has committed the offence.

4. The Hon'ble Supreme Court has in extenso laid down the principles for the purpose of framing of charges in **P.Vijayan Vs. State of Kerala (2010) SCC 398**. Recently, the Hon'ble Supreme Court examined the issue involved in the present case in State through **Deputy Superintendent of Police Vs. R.Soundirarasu etc. 2023 (2) RCR Criminal 206** where a two Judge Bench, speaking through Justice J.B. Pardiwala, concluded that the primary consideration at this stage of framing of charges is the test of existence of a

prima facie case and the probative value of the material available on record is not to be gone into.

5. In view of the aforesaid facts and circumstances, this Court finds no ground to interfere with the impugned order dated 23.01.2024 and the same is upheld. Resultantly, the instant petition stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

March 04, 2024
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No