



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

CRM-M-13557-2025

Date of decision: 11.03.2025

GURJOT SINGH

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Niraj Sinhmar, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Prayer in the present petition filed under Section 528 BNSS, 2023 is for quashing order dated 13.01.2025 whereby charges were framed against the petitioner by learned Judicial Magistrate Ist Class, Narwana in case stemming from FIR No.218 dated 09.10.2020 registered under Sections 406/420/467/468/471/506 IPC at P.S. Garhi (Annexure P-1) and all the subsequent proceedings arising therefrom.

2. That brief facts of the case are that petitioner and his co-accused, in connivance with each other, cheated and defrauded the complainant, of more than Rs.9,50,000/-, on the pretext of sending him to Canada along with his family and procure a work VISA. On the said allegations, FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR (*supra*) and his name had only emerged during investigation. He further contends that even the mobile number, which was mentioned in the FIR (*supra*), was not recovered from the petitioner. He submits that the findings of learned trial Court in framing the charge against the petitioner is against the settled law as no *prima facie* case is made out



against the petitioner. Further, the main culprit is co-accused namely Harpreet Singh, who has not been arrested till date. Furthermore, during investigation, apart from the disclosure statement, there is no other evidence was found against the petitioner. Therefore, in the absence of any evidence, the petitioner ought to have been discharged by the learned trial Court.

4. *Per contra*, learned State counsel appears on advance notice and opposes the prayer made by the petitioner on the ground that the petitioner has been correctly arraigned as an accused. During investigation, the subscriber ID of the mobile number used in the alleged offence was obtained from the Cyber Branch, which was registered in the name of the petitioner. It is a matter of trial to ascertain whether the petitioner has obtained the subscriber ID in his name and handed over the same to the co-accused, who further used it in the alleged offence. As such, the learned trial Court has correctly passed the impugned order as the probable defence of the accused cannot be looked into at this stage.

5. I have heard the learned counsel for the parties and perused the record with their able assistance.

6. The law on the issue with regard to the nature and degree of evaluation of the evidence presented by the investigating agency before the trial Court at the time of framing of charge is well settled. The trial Court at this stage is only to form a presumptive opinion with regard to the 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 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. The adequacy and sufficiency of the evidence is not to be considered at this stage. The veracity of the evidence can only be evaluated during the trial. In view of the legal literature and judgmental law on this issue, it could be safely concluded that at the stage of forming an opinion under Section 227, 239 and 240 of Cr.P.C, the learned trial Court is required to evaluate the material only with a purpose to ascertain whether the facts emerging from the record if taken at their face value disclose the existence of all the ingredients constituting the offence. The discharge of the accused is only permissible when the case set up by the investigating agency in the final report filed before the trial Court under 173 of Cr.P.C. has no basis or foundation. The trial Court cannot consider the probable defence of the accused in the case at this stage.

7. 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 it was reiterated 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.

8. In the matter at hand, satisfactory evidence has come up on



investigation for the purpose of framing of charges, as a *prima facie* case is made out against him by virtue of his association with the mobile number used. The petitioner will have sufficient opportunity to prove his defence at the time of trial. As such, no interference is warranted by this Court.

9. Accordingly, present petition stands dismissed being bereft of any merit. Pending miscellaneous application(s), if any, shall also stand disposed of.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.

March 11, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No