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

Sr. No.113

**CRR-1241-2025 (O&M)
Date of decision : 21.07.2025**

Somnath and another

..... Petitioners

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Fateh Saini, Advocate for the petitioners.

Mrs. Saumya Ahluwalia, Senior DAG, Haryana.

KIRTI SINGH, J. (Oral)

1. Challenge is to the impugned order dated 10.02.2025 passed by the Addl. Sessions Judge, Ambala whereby it was ordered to frame the charge against the petitioners who are the mother-in-law and father-in-law respectively having been nominated as accused in the FIR No.217 dated 24.08.2022, under Section 304-B IPC, registered at Police Station Ambala Sadar, District Ambala.

2. Shorn of details, the facts in brief are that the aforementioned FIR was registered against the petitioners i.e. parents in law of the deceased, and their son, on the statement of Lakhwinder Singh-brother of the deceased. The statement of the complaint leading to the registration of the instant FIR reads thus:-

"I am resident of above-mentioned address and am doing labour work. We are two brothers and one sister (name withheld). My other brother Ramsharan is younger than me. We both brothers are unmarried. The death of my father Harpal Singh had since been taken place in the year 2003. That on

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dated 18.02.2022, we had solemnized marriage of our sister, (name withheld) with Sunil Kumar s/o Sh. Somnath r/o Devi Nagar, Ambala with Hindu rites and ceremonies. That at the time of marriage, we had given dowry articles by going beyond our capacity. That after some days of marriage, my sister said that my husband, mother-in-law, father-in-law and both the sisters-in-laws are not happy with the dowry given by us. As a result of which, we have felt a lot of insult amongst the society and relationship. That all of them started putting pressure upon my sister to bring dowry. That my father has already since been died and both of us are doing labour work. Recently my sister's marriage has been performed and we cannot give dowry. That thereafter we went to their home and had discussion and tried to exhort them a lot. That while remaining alright for few days they again started causing harassment to my sister. That in the month of April, I gave a sum of Rs.50,000/- to my brother-in-law (Jija) Sunil Kumar by borrowing from someone so that he may not cause harassment to my sister. That after few days later, he again started causing harassment to my sister for bringing dowry. That on 30.07.2022, I again gave sum of Rs.50,000/- to my brother-in-law (Jija) Sunil Kumar by releasing it from committee. But even thereafter in-laws of my sister didn't stop assaulting and causing harassment to my sister. In this regard, my sister (name withheld) told me on a number of times over phone and I tried my best on number of times to exhort husband of my sister and mother-in-law, father-in-law and other legal heirs. That yesterday 23.08.2022 my brother Ramsharan called from his Phone No. 7355166591 to my sister (name withheld) upon her phone number 8307604323 and asked her wellbeing, whereby my sister (name withheld) told that my in-laws are assaulting a lot and are causing lot of harassment. Upon which my brother said that if they are causing excess harassment then we all may come, then my sister inhibited him to come. That on 23.08.22 itself time at

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around 7.00 PM we received information that your sister (name withheld) has died and you may reach soon at Devi Nagar Ambala. That me along with Rakesh Kumar S/o Sh. Sucha Singh, Harbhajan Singh S/o Desh Raj, Gurmeet Singh Son of Sucha Singh upon getting information reached Ambala City and there were injury marks upon her throat. We have satisfied completely, that my sister Kirma has been killed by her husband Sunil Kumar, his father-in-law Somnath, mother-in-law Krishna Devi, sister-in-law Rajrani and Sunita in collusion with each other amid dowry. Legal action may be initiated against them, Post mortem examination of dead body of my sister may be conducted and her dead body may be handed over to me for cremation."

3. Learned counsel for the petitioners *inter alia* submits that on 18.12.2023, both the petitioners had filed their joint application under Section 227 Cr.P.C. seeking discharge in the abovementioned case. The aforesaid application for discharging the petitioners came up for final hearing on 10.02.2025 and the same has been dismissed. The order dated 10.02.2025 has been assailed on the ground that the petitioners have been falsely implicated in the present case. There was no suicide note of the deceased found, and both the petitioners were not even present at home at the time of the unfortunate incident. The allegations leveled against the petitioners are ill-founded. Infact, in the order of this Court granting regular bail to the petitioners vide order dated 22.11.2023 in CRM-M-4787-2023 (Annexure P3), it was observed that the allegations leveled against the petitioners was essentially the same as leveled against their daughters (sisters-in-law of the deceased), who had been found innocent during investigation. It is further submitted that the learned trial Court while dismissing the application for discharge has wrongly relied upon Section

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113-B of the Indian Evidence Act, whereas, at best, the petitioners could be included within the purview of Section 113-A, since as per medical evidence, the deceased had committed suicide. It is, therefore, prayed that the impugned order dated 10.02.2025 be set aside.

4. *Per contra*, learned State counsel has opposed the prayer and has submitted that the order dated 10.02.2025 passed by the Addl. Sessions Judge, Ambala has been passed after due appreciation of the relevant facts. While placing reliance upon the affidavit of Sh. Vijay Kumar (HPS), Deputy Superintendent of Police, HQS, District Ambala dated 15.07.2025, learned State counsel submits that thorough investigation was conducted in the present case. Post-mortem of the deceased was conducted, and as per its report, the cause of death was stated to be Asphyxia due to hanging (ante-mortem). After recording the statement of the complainant and other witnesses, namely Ram Saran, Harbhajan Singh and Rakesh Kumar the learned trial Court after due consideration and after hearing the arguments of both sides at length, dismissed the discharge application of the accused persons. Post the registration of the FIR, the husband of the deceased was joined in investigation on 24.08.2022, who pursuant to disclosure statement got effected the recovery of three pieces of *chunni* and a scissor. It was thereafter that the accused petitioners were formally arrested on 10.09.2022 and were questioned and interrogated. After due completion of FIR, final report was prepared qua the present petitioners and their son under Sections 304-B IPC, and 19 prosecution witnesses were cited. The same was submitted before the learned Illaqa Magistrate, Ambala on 18.11.2022. It was after considering the same, that the learned trial Court decided to

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dismiss the application for discharge filed by the petitioners by way of the impugned order dated 10.02.2025.

5. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, this Court finds no force in the arguments advanced by learned counsel for the petitioner. The present petition is decided *in limine* in order to save litigation cost of the respondent and also to save the judicial time of the Court.

6. The law with respect to the documents/material to be considered at the time of deciding an application for discharge is well settled, and was reiterated by the Hon'ble Supreme Court in ***Captain Manjit Singh Viridi (Retd.) vs. Hussain Mohammed Shattaf and ors., Criminal Appeal No. 1399 of 2023 decided on 18.05.2023***, wherein it was held that:

“11. The law on issue as to what is to be considered at the time of discharge of an accused is well settled. It is a case in which the Trial Court had not yet framed the charges. Immediately after filing of chargesheet, application for discharge was filed. The settled proposition of law is that at the stage of hearing on the charges entire evidence produced by the prosecution is to be believed. In case no offence is made out then only an accused can be discharged. Truthfulness, sufficiency and acceptability of the material produced can be done only at the stage of trial. At the stage of charge, the Court has to satisfy that a prima facie case is made out against the accused persons. Interference of the Court at that stage is required only if there is strong reasons to hold that in case the trial is allowed to proceed, the same would amount to abuse of process of the Court.

12. The law on the point has been summarised in a recent judgment of this Court in State of Rajasthan v. Ashok Kumar Kashyap². Relevant paras are extracted below: -

“11.1. In P. Vijayan v. State of Kerala, (2010) 2 SCC 398, this Court had an occasion to consider Section 227 CrPC What is required to be considered at the time of framing of the charge and/or considering the discharge application has been considered elaborately in the said decision. It is observed and held that at the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground

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for proceeding against the accused. It is observed that in other words, the sufficiency of grounds would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him. It is further observed that if the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228 CrPC, if not, he will discharge the accused. It is further observed that while exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

11.2. In the recent decision of this Court in State of Karnataka v. M.R. Hiremath, (2019) 7 SCC 515, one of us (D.Y. Chandrachud, J.) speaking for the Bench has observed and held in para 25 as under: “25. The High Court [M.R. Hiremath v. State, 2017 SCC OnLine Kar 4970] ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 239 CrPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In State of T.N. v. N. Suresh Rajan, (2014) 11 SCC 709, advertent to the earlier decisions on the subject, this Court held: ‘29. ... At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.’”

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7. In ***Rajnish Kumar Biswakarma vs. State of NCT of Delhi and anr., SLP (Criminal) No. 5290/2024 decided on 21.11.2024***, the Hon'ble Supreme Court, while making a reference to the judgment passed in the case of ***State of Orissa vs. Debendra Nath Padhi, 2005 1 SCC 568***, reiterated that while considering an application for discharge, only documents forming a part of the chargesheet can be considered.

8. Reverting to the present case, it is an admitted fact that the marriage of the deceased was solemnized with the son of the petitioners on 18.02.2022, and the deceased died on 23.08.2022 in her matrimonial home, due to asphyxia caused by ante-mortem hanging, i.e. well within the statutory period of 07 years. The complainant had leveled specific allegations qua the harassment being caused to the deceased by her husband and in-laws for the demand of dowry. The statements of the witnesses Ram Saran, Harbhajan Singh and Rakesh Kumar were also in consonance with the statement of the complainant. It is therefore that the presumption under Section 113-B of the Indian Evidence Act was invoked by the learned trial Court. It is also not the case that the petitioners were residing separately from the matrimonial home of the deceased and had no interference in the married life of their son. date of a perusal of the record clearly indicates that it is not on dispute that the daughter-in-law of the accused persons died unnatural death within 07 years of marriage in her matrimonial home. Trite to say that at the stage of framing of charges, the Court has to be, upon a perusal of the final report placed before it, that *prima facie* case is made out against the accused persons, as was done by the learned trial Court while dismissing the discharge application filed by the petitioners.

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9. This Court does not find any infirmity or illegality in the order dated 10.02.2025, which was passed after due diligence by the learned ASJ, Ambala, observing that based on final report filed by the police and documents annexed therewith, a *prima facie* case is made out against the accused persons and there are sufficient grounds for proceedings against them under Section 304-B read with Section 34 IPC.

10. Accordingly, the petition stands dismissed.

11. The observations made above are only with regard to the present *lis*. It goes without saying that nothing stated hereinabove shall be construed to be an expression of an opinion on the merits of the case.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

21.07.2025
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No