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

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CRR-1651-2025 (O&M)
Date of decision : 22.12.2025

Abdul Malik

...Petitioner

Versus

Union Territory, Chandigarh

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mohd. Uzair, Advocate
for the petitioner.

Mr. Rahul Arora, Additional P.P., U.T., Chandigarh.

MANISHA BATRA, J.(Oral)

1. The instant revision petition has been filed against the order dated 17.03.2025, passed by the Court of learned Judicial Magistrate First Class, Chandigarh in case arising out of FIR No. 43 dated 28.03.2019, registered under Sections 420 and 120-B of IPC at Police Station Manimajra Chandigarh, whereby an application by the petitioner under Section 227 of Cr.P.C., seeking his discharge from the aforementioned case, had been dismissed.

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a joint complaint lodged by complainant Kuldeep Bansal along with 17 other

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complainants alleging therein that one Rahul Ray had opened a shop under the name of M/s The Light House at Manimajra, Chandigarh by taking a shop on rent from one Karam Singh on 02.11.2018. He started purchasing electrical goods on credit from various persons including complainants/victims herein. He had issued several cheques to the complainants against the dues payable to them. However, on 01.02.2019, he shut down his shop and disappeared. The cheques issued by him were also dishonoured on presentation. While alleging that the above named accused had cheated and defrauded them of a sum of Rs.24,00,725/-, the complainants prayed for taking action the matter. After registration of the FIR, investigation proceedings were initiated. During the course of investigation, the statements of the complainants were recorded and it was revealed that it was the petitioner, who had introduced accused Rahul Ray to the complainants and had aided him to commit the subject offences. The petitioner was nominated as co-accused in the case. The petitioner and accused Rahul Ray were arrested and were subsequently granted concession of bail. After completion of the investigation, challan was presented before the Court. The petitioner had filed an application under Section 227 of Cr.P.C. seeking his discharge from the case but the same had been dismissed by the learned trial Court by passing the impugned order. Feeling aggrieved, the present petition has been filed by the petitioner.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The impugned order, passed by the learned trial Court, is not sustainable in the eyes of law as there is no cogent

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evidence or material to support the allegations levelled against the petitioner. He has not been named in the FIR. The dispute is of civil nature involving documentary evidence. All the cheques had been issued by co-accused Rahul Ray. There is nothing on record to show that the petitioner was either his partner or had any intention to defraud the complainants. He was merely acquainted with co-accused Rahul Ray, being an electrician. The ingredients for commission of subject offences are not made out at all against him. Learned trial Magistrate, while passing the impugned order, did not take all these facts and circumstances into consideration. With these broad submissions, it is urged that the impugned order is liable to be set aside, the petition deserves to be allowed and the petitioner deserves to be discharged of the offences for which he has been booked and challaned.

4. Reply has been filed by the respondent-U.T., Chandigarh. It is submitted therein and learned Additional Public Prosecutor, Chandigarh has initially raised an objection that the present petition is not maintainable as the petitioner should have approached the Sessions Court first instead of filing the present petition. Apart from maintainability, it is argued by him that there is no infirmity or illegality in the impugned order as the petitioner had actively participated in duping the complainants of a huge amount of money. The statements, so recorded by the complainants, clearly reveal his role in commission of offences. The matter has been duly investigated by the police. At the stage of framing of charge, a *prima facie* case is to be seen and the allegations make out a case for framing the same. Learned trial Magistrate has passed a well reasoned order, which does not warrant any

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interference. Hence, it is urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. Before proceeding further, it would be proper to have a look at the provisions of Section 227 of Cr.P.C., which read as under:

“227. Discharge

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

7. Now the question that has arisen before this Court for consideration is as to whether the petitioner was liable to be discharged? In the considered opinion of this Court, the answer to this question is in negative for the reasons to be recorded in the coming paragraphs.

8. 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. At this stage, the trial Court is only required to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the alleged offences. At the stage of formation of opinion under Sections 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. Hon’ble Supreme Court has laid down the principles for the purpose of framing of charges in *P. Vijayan vs. State of*

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Kerala : (2010) 2 SCC 398. Reference can further be made to the authority cited as **Union of India Vs. Prafulla K Samal : (1979) 3 SCC 4**, wherein Hon'ble Supreme Court has held that the Court while considering the question of framing charges under Section 227 of Cr.P.C. 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. It was further observed that 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 charge and proceeding with the trial and the Court should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if it was conducting a trial. Reference can also be made to **Vishnu Kumar Shukla and another vs. State of Uttar Pradesh and another : 2024 AIR Supreme Court 90**, wherein Hon'ble Supreme Court, while referring to **Rumi Dhar vs. State of West Bengal, (2009) 6 SCC 364 and State of Tamil Nadu vs. N. Suresh Rajan, (2014) 11 SCC 709**, has made similar observations.

9. Reliance can also be placed upon the authority cited as **State of Gujarat vs. Dilipsinh Kishorsinh Rao : 2023 SCC OnLine SC 1294**, wherein Hon'ble Supreme Court, while relying upon its judgments rendered in **State of Maharashtra vs. Som Nath Thapa : (1996) 4 SCC 659** and **State of M. P. vs. Mohan Lal Soni (2000) 6 SCC 338**, has held that the defence of the accused is not to be looked into at the stage when the accused seeks to be discharged. The expression "the record of the case" used in Section 227 of Cr.P.C. is to be understood as the documents and articles, if

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any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency. The primary consideration at the stage of framing of charge is the test of existence of a prima facie case and at this stage, the probative value of materials on record need not be gone into. The nature of evaluation to be made by the Court at the stage of framing of the charge is to test the existence of prima facie case. It was also held that at the stage of framing of charge, the Court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.

10. Now advertent to the peculiar facts and circumstances of the present case, it is revealed that the petitioner has been arraigned as an accused in the aforementioned FIR, which was registered on a complaint jointly lodged by 18 complainants on the allegations that accused Rahul Ray had duped them of a sum of Rs.24,00,725/- by fraudulently purchasing electrical goods from them. The complainants in their statements had categorically named the petitioner as a person, who had introduced accused Rahul Ray to them and had requested them to supply electrical goods to him on credits. Although the petitioner is not named in the FIR, however, in the statements of the complainants recorded during the course of investigation, the allegations of being an accomplice of accused Rahul Ray have clearly

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been levelled against the petitioner. The statements got recorded by the complainants have been made part of the challan report. From the allegations levelled against the petitioner, it cannot be said that not even a *prima facie* case is made out against him for offences for which he has been booked and challaned. It is a settled position of law that an FIR is only a document of initial information meant to set the criminal law in motion and is not expected to contain all the details of the occurrence or the names of all the persons involved. The FIR is not an encyclopedia of the prosecution case. Merely because the petitioner was not named in the FIR, no right accrues in his favour to seek discharge under Section 227 of Cr.P.C. The involvement of an accused can very well surface during the course of investigation on the basis of statements of the victims or witnesses and other material collected by the investigating agency. If the chargesheet and accompanying material disclose a *prima facie* case and raise a grave suspicion regarding the involvement of the accused, the plea that the accused was not named in the FIR is wholly inconsequential. The trial Court has rejected the prayer of the petitioner by passing a detailed order and by observing that a *prima facie* case was made out against the petitioner. On a plain reading of the contents of the challan report, which is supported by the statements of the complainants, it cannot be stated that the necessary ingredients of the subject offences are not made out and the trial Court had erred in rejecting the claim of the petitioner for discharge. Accordingly, in view of the discussion as made above, the present revision petition is dismissed as no infirmity or illegality is found in the impugned order, passed

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by the trial Court, which is a well reasoned order.

11. However, it is made clear that the observations made herein above are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion of this Court on the merits of the case.

22.12.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No