

CRR-2053-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2053-2023 (O&M)

Date of Decision: 28.01.2025

RAVINDER AND OTHERS

...Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parveen Chauhan, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. Present revision petition has been preferred by the petitioners against the order dated 12.05.2023 passed by learned Sessions Judge, Sonapat vide which the petitioner has been charge sheeted under Section 308 of Indian Penal Code.

2. Learned counsel for the petitioners *inter alia* contends that perusal of the order of framing of charges dated 12.05.2023 passed by learned Sessions Judge, Sonapat indicates that there is no mention of Section 308 of Indian Penal Code and only Sections 148, 323, 325 and 328 read with Section 149 of Indian Penal Code are mentioned and on the same date in the charge sheet dated 12.05.2023 (Annexure P-3), instead of Section 328, charges under Section 308 has been framed. In the order of framing of charges none of the offences was triable by the Sessions Court. The learned Additional Sessions Judge, Sonapat ought not to have framed the charges under Section 308 of Indian Penal Code. Learned counsel further contends that there is no opinion by the doctor with regard to any injury being dangerous to life and the material available on record

Penal Code and further learned Additional Sessions Judge, Sonapat has not assigned any reason for dismissing the discharge application filed by the petitioner and on the same date, the application filed by the petitioner seeking discharge was dismissed in a mechanical manner.

3. Per contra, learned State counsel submits that the arguments advanced by learned counsel for the petitioners are contrary to the record and are totally misconceived. The FIR(supra) has been registered under the provisions of Section 308 of Indian Penal Code. Thereafter, learned jurisdictional Magistrate Ist Class has committed the case to learned Sessions Court as the offence under Section 308 of IPC was exclusively triable by the Court of Sessions and further the final report was also presented for the offence under Section 308 of Indian Penal Code on 06.06.2022 and the omission of mentioning of Section 308 of IPC in the order of framing of charges dated 12.05.2023 is curable illegality, which has occurred due to inadvertent typographical error, however, the charge sheet clearly indicates the intention of the trial Court for framing the charges on the basis of material available on record under Section 308 of Indian Penal Code. Further it is a trite law that at the time of framing of charges, the probative value and the sufficiency of material is not to be gone into and a *prima facie* view is required to be made out for framing of the charges and further it is also a settled law that reasoned and detailed order is not passed for the purpose of framing of charges or dismissal of discharge application.

4. Having heard learned counsel for the parties and after perusal of the record with their able assistance, this Court does not find any force in the arguments advanced by learned counsel for the petitioners.

5. 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, 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.
6. In view of the above, petition stands dismissed being bereft of any merit.

(HARPREET SINGH BRAR)

JUDGE

28.01.2025

Ajay Goswami

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