



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

126

CRM-M-59719-2025 (O&M)

Date of decision: 11.11.2025

Karam Singh and others

...Petitioner(s)

VERSUS

State of Haryana and another

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Parminder Singh, Advocate for the petitioner(s).

VINOD S. BHARDWAJ, J. (Oral)

1. The instant petition has been filed for setting aside the order dated 23.09.2025 passed in case bearing FIR No.388 dated 01.07.2025 registered under Sections 110, 115, 117(2), 190, 191(3), 333, 351(2) of the Bharatiya Nyaya Sanhita, 2023 at Police Station Gharaunda, District Karnal, whereby charges were framed against the petitioner for commission of offences under Sections 109(1) and 331(8) of the Bharatiya Nyaya Sanhita, 2023, instead of offences under Sections 110 and 333 of the Bharatiya Nyaya Sanhita, 2023, as mentioned in the final report.

2. Learned counsel appearing on behalf of the petitioner submits that respondent No. 2 complainant, Ajaib Singh, lodged an FIR on 29.06.2025 alleging that the petitioners had trespassed into his house and assaulted his son Ravi, his daughter-in-law Rekha, and his grandson Ritiq. On these allegations, the FIR was registered under Sections 110, 115, 117(2), 190, 191(3), 333, and 351(2) of the Bharatiya Nyaya Sanhita, 2023



at Police Station Gharaunda, District Karnal. As per the Medico-Legal Examination, Ravi was found to have sustained three blunt injuries; Rekha had suffered seven blunt injuries and Ritiq had suffered six blunt injuries. Statements of witnesses recorded under Section 161 Cr.P.C. reflected corroboration by the villagers regarding the allegations levelled in the FIR.

3. Counsel further submits that as per the MLR of Rekha, injury No. 1 was simple in nature, injuries No. 3 and 4 were grievous but caused by a blunt weapon, injury No. 5 was blunt and no opinion was offered on injuries No. 6 and 7. With respect to Ravi, injury No. 1 was opined to be grievous in nature, whereas injuries No. 2 and 3 were simple. He argues that the investigation and medical opinion led to filing of the final report under the very offences as mentioned in the FIR, against some accused while certain accused were found innocent. It is further contended that the genesis of the incident was that the complainant's grandson, Ritiq, had been keeping an evil eye upon the niece of the petitioner. The altercation was a minor scuffle intended to admonish him. The only recovery effected was that of a wooden *danda* from some of the accused persons. Thus, at best, the allegations would correspond to an offence under Section 110 of the Bharatiya Nyaya Sanhita, 2023, triable by the Court of Sessions. However, the learned Additional Sessions Judge, vide order dated 23.09.2025, proceeded to frame charges under Sections 109(1), 115, 117(2), 190, 191(3), 331(8), and 351(2) of the Bharatiya Nyaya Sanhita, 2023. Aggrieved by the framing of the charges under Section 109(1) and 331(8) of the Bharatiya Nyaya Sanhita, 2023, the petitioners are before this Court.



4. Counsel for the petitioners has raised the following arguments:
- (i) That the Additional Sessions Judge could not have framed charges for offences of a higher degree, especially when the final report had been submitted only for an offence under Sections 110 and 333 of the Bharatiya Nyaya Sanhita, 2023;
 - (ii) The incident in question arose out of a sudden provocation and grievance stemming from the conduct of Ritq, the complainant's grandson, who was keeping an evil eye on the young girls in the accused party's family, thereby triggering the altercation;
 - (iii) That no specific reasons have been assigned by the Additional Sessions Judge while framing the charge and that the submissions advanced on behalf of the petitioners have not been dealt with in the impugned order;
 - (iv) That no prejudice would be caused to the complainant side if the charge under Section 109 of the Bharatiya Nyaya Sanhita, 2023 is not framed at this stage. He submits that Section 510 of the Bharatiya Nyaya Sanhita, 2023 empowers the appellate Court to confirm a sentence for an offence even where no formal charge was framed, provided that no illegality or miscarriage of justice has occurred.



5. I have heard the learned counsel for the petitioners and have gone through the documents available on record. No judgment has been cited by the counsel nor any other argument has been raised.

6. Before proceeding further in the matter, it would be appropriate to make a reference to the order framing charge to the extent whereby charge under Section 109 of the Bharatiya Nyaya Sanhita (BNS), 2023 has been framed against the petitioners. The relevant extract thereof reads thus:

“That on 29.06.2025, at about 4.00 A.M., in the area falling within the jurisdiction of P.S. Gharaunda, Karnal, you all accused being members of an unlawful assembly caused injuries to PWs/injured Ravi, Rekha and Ritik and at that time armed with deadly weapons i.e. Lathi, danda and iron rods etc. which were used as weapons of offence, was likely to cause death and thereby committed an offence punishable under section 191(3) of BNS and within cognizance of this court.

Secondly, on the same date and place, you all accused being members of unlawful assembly attacked PWs/injured Ravi, Rekha and Ritik by using Lathi, danda, iron rods etc. with intention to kill them and thereby committed an offence punishable under Section 109(1) read with Section 190 of BNS, which is within the cognizance of this court.”

7. The allegations as leveled in the FIR by the complainant deserve a special mention. The relevant extract thereof reads thus:-

“To The SHO Sahib PS Gharaunda. Subject: For initiating



legal proceedings against accused (1) Karam Singh. (2) Bishan Singh, (3) Bittu, (4) Beeram s/o (5) Vikas s/o Beeram, (6) Ravi s/o Airam, (7) Babli s/o Bittua, (8) Santosh w/o Bishan residents of Devipur Gahri Bal Police Station Ghraunda, District Karnal regarding causing beatings after entering into house and issuing threats to kill. Sir, It is submitted that I Ajaib Singh s/o Hardwari r/o Village Devipur Gahri bal PS Ghraunda, District Karnal. Yesterday on 29.06.2025 in the morning my son Ravi and his wife Rekha and their daughter Anu and son Ritik were sleeping in the house. In the morning at about 4 AM above said accused persons armed with Lathi Dandas, iron rods and sharp edged weapons committed assault upon my son and his family members. They have scaled the wall and caused injuries with their sharp edged weapons. My son and daughter in law and their children suffered grievous injuries and they were admitted at Hospital. Accused persons by giving threat us to kill while going took away Rs.6600/- cash and silver Chutki worn by my daughter in law Rekha in her foot. He has apprehension of each life. The accused persons are more in number and they could again commit assault upon us. It is therefore prayed that keeping in view the above facts legal proceedings may kindly be carried out and justice be done with us and our life may be protected. Beside you there is no other person to help us. I shall be highly obliged. 30.06.2025. Mobile



Number of accused is 9053775253. Sd/- Ajaib Singh.”

8. As many as 16 injuries were sustained by the family members of the complainant, several of which are of a grievous nature. The weapon(s) used in the incident were *lathis*, *dandas* and iron rods.

9. In the said background it would also be appropriate to make a reference to Sections 109 and 110 of the Bharatiya Nyaya Sanhita (BNS), 2023.

“109. (1) Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

(2) When any person offending under sub-section(1) is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death or with imprisonment for life, which shall mean the remainder of that person’s natural life.

110. Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act



caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

10. Counsel for the petitioner has argued that it would not be a case where charge under Section 109 of the Bharatiya Nyaya Sanhita (BNS), 2023 can be framed, as a specific defence under explanation 4 of Section 101 of the Bharatiya Nyaya Sanhita, 2023 would be available to the petitioners. It is the case of the petitioners that their niece, Saloni, is stated to have eloped on 15.06.2025 with Ritik and also to have been recovered on the same day. The incident gave rise to the instant incident and the consequent FIR that occurred on 29.06.2025 i.e. almost fifteen days thereafter.

11. In such circumstances, the plea that the occurrence was the consequence of a sudden provocation may not *per se* be accepted at this preliminary stage. No proximate nexus or immediate triggering event has been demonstrated which would justify the invocation of the doctrine of provocation *ex facie*. The same thus becomes a plea of defence to be established during trial.

12. Besides, a specific question has also been put to the counsel of the petitioners as to how any grave prejudice would be caused to the petitioners by a mere framing of a charge under Section 109 of the Bharatiya



Nyaya Sanhita (BNS), 2023 considering that the offences under Sections 109 and 110 are both triable by the Court of Sessions. Moreover, the offence under Section 110 of the Bharatiya Nyaya Sanhita (BNS), 2023 being a lesser offence, if the plea of defence is accepted, the substantive punishment would only be for the lesser offence under Section 110 of the Bharatiya Nyaya Sanhita (BNS), 2023. Thus, the mere framing of an additional charge, which does not in any manner alter the nature or structure of the trial, cannot be said to occasion any irreparable loss or prejudice to the petitioners. Learned counsel for the petitioners has not been able to demonstrate any substantive prejudice that may arise solely on account of the framing of the impugned charge.

13. Before examining the issue any further, it would be relevant to refer to certain provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 pertaining to charge. The same reads thus:-

“239. (1) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the



altered or added charge had been the original charge.

(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary. (5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

244. *(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.*

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have



committed, although he was not charged with it.

245. (1) *When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.*

(2) *When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.*

(3) *When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.*

(4) *Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.*

14. It is evident from a conjoint reading of the above provisions that Court has power to alter or add any charge at any time. Hence, the argument that the charges under Sections 109 and 331(8) of the Bharatiya Nyaya Sanhita, 2023 were not mentioned in the final report and hence charge could not be framed for the said offences and deserves to be dismissed. Besides, Section 244 the Bharatiya Nagarik Suraksha Sanhita,



2023 specifically stipulates that when there are several offences or it is doubtful as to which offence is committed, the accused may be charged for having committed all the offences. Hence, the provision empowers the Court to even frame charge for offence when there is any doubt w.r.t. the actual offence committed. Thus, when the Court has framed a charge when it may feel the said offence being committed, the said act cannot be said to be illegal on the basis of the line of defence being argued by the petitioner. The said aspect being a disputed question of fact, it would not be a factor to be adjudged at this stage. Framing of a charge cannot be equated to conviction under the charge. There is no rejection of any evidence or defence of the petitioners herein.

15. The argument advanced by the counsel for the petitioners that the invocation of Section 109 of the *Bharatiya Nyaya Sanhita*, 2023, as a separate charge, would impermissibly enlarge the scope of punishment lacks merit. It needs not re-iteration even as per argument of the petitioner that a trial Court remains fully empowered, upon appreciation of the evidence and for reasons to be specifically recorded, to impose punishment for other offences as well even where no formal charge under that provision has been framed. In fact, the argument advanced by the petitioners serves, in effect, against his own case. If the petitioners themselves assert that a conviction under Section 109 may be sustained despite the absence of a formal charge, then it necessarily follows that the framing of such a charge at this stage would not, by any measure, be said to prejudice them. Merely because the Appellate Court is empowered to regularise an error that may have been



committed by the trial Court does not mean that such an irregularity ought to be committed. Where a defect is curable, prudence requires that it be corrected at the earliest stage.

16. Besides, the charge is framed not on the basis of microscopic examination or surgical dissection of the entire evidence but on the basis of the totality of circumstances including the nature of injuries, the manner in which the injuries have been caused, the nature of assault and as to whether the same was pre-meditated or not.

17. In the case at hand, the cumulative circumstances, notably the timing of the occurrence at 4:00 A.M., the petitioners' entry into the complainant's residence, and their being armed with lathis, dandas, and iron rods prima facie indicate a premeditated act, executed with preparation and intent to inflict harm upon the family members who were asleep within their home.

18. In so far as the argument of petitioner that his argument have not been dealt with by the trial Court is concerned, he has failed to refer as to what argument had been raised at the time of framing of charge. So much so, it is also not the ground of challenge that any argument of the petitioner has not been dealt with or not discussed. Hence, when there is no specific case that any argument was addressed, there is no occasion for dealing with the arguments.

19. I am thus of the opinion that the impugned order framing charge does not warrant interference more so when there is no demonstration of irreparable loss, grave prejudice, or patent illegality or perversity.



126 CRM-M-59719-2025 (O&M)

- 20. In view of the above, the present petition is *dismissed*.
- 21. Nothing stated hereinabove should, however, be construed as an expression of opinion on the merits of the case.

(VINOD S. BHARDWAJ)
JUDGE

11.11.2025
Mangal Singh

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