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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 228/2025, CRL.M.A. 17478-17479/2025

PRAMOD KUMAR AND ORS

.....Petitioners

Through: Ms. Anupriya Yadav and Ms. Shruti
Bageshara, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with Mr. Anugraha, SI, PS-Welcome.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

14.07.2025

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1. The present revision petition under Sections 397/401 of the Code of Criminal Procedure, 1973¹ is directed against order on charge dated 16th January, 2025 passed by the Additional Sessions Judge-05 (Shahdara) Karkardooma Courts, Delhi. The said proceedings emanate from FIR No. 364/2019, registered at P.S. Welcome, for the offences under Sections 308/323/354/34 of the Indian Penal Code, 1860.² The Petitioners have been arrayed as the accused in the said FIR.

2. Briefly stated, the case of the Prosecution is as follows:

2.1. Upon receipt of DD No. 15A dated 21st July, 2019, SI Amit Bhardwaj, accompanied by a police official, reached the location at C-283, Chhajjupur, Shahdara, Delhi, where he learned that the injured/victim had

¹ "Cr.P.C."

² "IPC"



already been taken to GTB Hospital. At the hospital, three injured persons, Vijay, R, and S, were found undergoing treatment, with their MLCs indicating history of physical assault.

2.2. On the same day, the statement of the Complainant, Vijay, was recorded. He stated that on 21st July, 2019, at around 7:30 AM, his neighbours, Mahesh, Pramod, Hari, Bobby (the Petitioners), along with one Suraj, and Pramod's son-in-law, approached him, demanding the removal of cement he had placed near a drain. When he refused, Pramod (Petitioner No. 1) entered the Complainant's house, brought out a *fawda*, and began removing the cement. When the Complainant protested, Mahesh, Suraj, Bobby, and Pramod's son-in-law allegedly held him, while Pramod struck him on the head with the *fawda*, causing bleeding. He was taken to the hospital by his brother, Ravikant.

2.3. Later that morning, at around 9:30 AM, Vijay's wife "A" called to inform him that after the PCR officials had left, the accused Chanchal, Bobby, Suraj, and Mahesh assaulted her, Vijay's mother, and his sister-in-law "P". His mother sustained injuries to her head and right hand. His wife was allegedly beaten, and her blouse was torn, and "P" was also assaulted. When his brother-in-law arrived at the scene, Suraj allegedly struck him on the head with a brick.

2.4. Based on Vijay's complaint, the subject FIR was registered. Victims "A" and "P" were also medically examined. "A" recorded her statement under Section 164 Cr.P.C., naming additional accused, Priyanka and Shilpi. She also alleged that Mahesh was armed with a knife, and reiterated earlier claims of assault and outraging of modesty of both herself and "P".



2.5. During the investigation, Petitioner No. 1 was arrested, and the weapon of offence, *fawda*, was recovered from the first floor of his house. Statements of victims and witnesses were recorded. Relevant case exhibits were sent to FSL, and the expert report was included in the chargesheet. Upon completion of the investigation, the chargesheet was filed under Sections 308/323/354/354-B/34 IPC against the accused.

2.6. Thereafter, the Trial Court, *vide* order on charge dated 16th January, 2025, observed that the accused persons had acted in furtherance of their common intention, and that there were sufficient grounds to make out a case for framing of charges, *inter alia*, under Sections 308/34 of the IPC.

3. Aggrieved, the Petitioners have invoked the revisional jurisdiction of this Court, seeking setting aside of the impugned order on charge. The principal contention advanced on behalf of the Petitioners is that the charge framed under Section 308 of the IPC is not borne out from the material on record. Given that the nature of injuries allegedly caused by the Petitioners were simple in nature, it is contended that, the charge, at best, ought to have been under Section 323 IPC.

4. Elaborating on this submission, Ms. Anupriya Yadav, counsel for the Petitioner, contends that the Trial Court failed to appreciate that the allegations levelled against the Petitioners are unsubstantiated and appear to have been made with the intent to harass them. It is submitted that the offence under Section 308 IPC (attempt to commit culpable homicide) necessitates the presence of a specific intention to cause death or knowledge that the act is likely to cause death. In the absence of any such intention or knowledge, the charge under Section 308 IPC cannot be sustained. It is further submitted that the acts attributed to the Petitioners, as reflected in the



chargesheet, do not indicate any deliberate intent to cause death. The incident in question arose out of a trivial altercation between neighbours, with no prior enmity or premeditation being attributed to the Petitioners. In such circumstances, she argues that the essential ingredients of Section 308 IPC are not satisfied, and consequently, the charge ought to have been diluted to Section 323 IPC.

5. The Court has considered the aforementioned facts and contentions. It is well-established that at the stage of framing of charge, the Court is not required to conduct a meticulous evaluation of the evidence. Rather, the scope of judicial scrutiny at this stage is limited to forming a *prima facie* view based on the material placed on record. ***In State of Tamil Nadu v. R. Soundirarasu and Others***,³ the Supreme Court held that at the stage of framing of charge, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offences alleged, would justify the framing of charge against the accused in respect of that offence. It is only in a case where the Magistrate considers the charge to be groundless that he is to discharge the accused after recording his reasons for doing so.

6. Applying the above legal principles, the Trial Court rightly proceeded to make a *prima facie* assessment of the material placed on record, without delving into a detailed examination of its veracity. In doing so, the Court made the following pertinent observations:

“7. It is a settled legal proposition that at the stage of charge, detailed or roving inquiry into the allegations of prosecution cannot be made on standard of deciding the guilt or innocence of accused persons. The Court, at this stage, is required merely to form an opinion or record its satisfaction if there is ground for presuming that accused have committed the offence. It

³ (2023) 6 SCC 768.



is also a settled proposition that on the basis of allegations of prosecution if two views are possible, charge must be framed against accused.

In the backdrop of settled legal position on point of charge, it is observed that statement of PW/complainant Vijay regarding role of accused Mahesh, Pramod, Hari, Bobby, Sachin is clear and categorical when he stated that all the accused persons caught hold of him and accused Pramod attacked on the back of his head using a fawda which he was using to remove cement from the drain. The said allegations wife of have also been prima facie corroborated by A complainant, when she stated that she witnessed the incident wherein accused Pramod hit a fawda on the head of her husband. She, infact, stated that when she and her sister-in-law Parvesh attempted to intervene, accused Mahesh again hit the same fawda on the head of her husband.

8. *A bare perusal of MLC of complainant/injured Vijay would provide that he suffered 'lacerated wound of 2.1x1cms and 3x1 cms over occipital region.'*

In the opinion of this Court, fawda is a dangerous weapon and same was used twice to attack the head of complainant/injured. This Court is not in agreement with the submission of Ld. Defence counsel that it was a sudden fight without an intention or knowledge to commit culpable homicide not amounting to murder. In the opinion of this Court, accused may not have an intention of causing death of victim, however, the use of weapon like fawda by accused Pramod while being assisted by five other accused is reflective of his knowledge that he is likely by such act to cause death. This Court is also of the opinion that knowledge of accused can be deciphered from the fact accused came prepared to quarrel with complainant on the issue of putting cement on drainage and accused Pramod deliberately brought a fawda to remove the said cement. In such circumstances, all these accused persons, who acted in furtherance of their common intention, cannot be considered to have committed only an offence of causing hurt punishable u/s 323 IPC. Their act certainly falls within the category of offence u/s 308/34 IPC. In other words, there are sufficient grounds to presume the commission of attempt to commit culpable homicide not amounting to murder u/s 308 IPC by these accused persons making out a case for framing of charge u/s 308/34 IPC.

9. *Similarly, there are clear and categorical allegations against the accused Chanchal, Priyanka, Shilpi, Bobby, Suraj and Mahesh to have criminally trespass inside the house of complainant at about 09:30 am, causing injuries to A P and R. Further, statements of PW A R P and R are concomitant to the effect that all these accused persons particularly accused Bobby, Suraj and Mahesh acted in furtherance of their common intention to disrobe the victim A and P by tearing their clothes. The argument of Ld. Defence counsel that such allegations are either false or an exaggeration of facts cannot be accepted at this stage of proceedings as there is nothing contrary to the said allegations on record. The aforesaid allegations, in the opinion of this Court, make out sufficient ground to presume commission of*



offence u/s 452/323/354/34 IPC against these six accused persons, and u/s 354-B/34 IPC against accused Bobby, Suraj and Mahesh.

10. *In her statement recorded u/s 161 Cr.P.C, PW A stated that accused Mahesh snatched gold chain of victim R showing a knife which he was carrying. The same allegation is repeated by PW R in her statement u/s 161 Cr.P.C recorded on 05.08.2019. by The statement of PW Parvesh is no exception making similar allegation against accused Mahesh. In fact, PW S also stated that he was informed by ladies of the house that accused Mahesh had snatched away the gold chain of R It is noted that IO has not dealt with such allegations in the chargesheet filed before the Court. In the opinion of this Court, such allegations, subject to scrutiny during cross-examination, create grave suspicion of commission of offence u/s 397 IPC by accused Mahesh.*

11. *It is also the case of prosecution that accused Suraj threw a brick and attacked PW S on his head while he was going towards the house of his brother-in-law i.e. complainant Vijay, causing injuries on his forehead i.e. 'lacerated wound 3x1 cms on the parietal region.' Since the said victim left the hospital, no final opinion on his MLC could be given. In the facts and circumstances, offence u/s 323 IPC is made out separately against accused Suraj for attacking victim S with a brick on his head.*

12. *Having considered the overall facts and circumstances of this case and the entire discussion, a case to frame charge against all the accused persons (as noted in the preceding paragraphs) is made out.*

13. *Ordered accordingly.*

14. *Put up for framing of Charge on 28.02.2025."*

7. A perusal of the aforesaid observations reveals that the Trial Court took into account vital aspects surrounding the alleged incident. The Court observed that the role of the Petitioners in the alleged offence was clear and categorical, wherein Petitioner Nos. 2 to 5 restrained the Complainant, while Petitioner No. 2 inflicted injuries on the back of the Complainant's head using a *fawda*. These allegations, as narrated in the FIR, were further corroborated by the testimony of the Complainant's wife, "A".

8. Furthermore, the Trial Court duly considered the question of dilution of the charge from Section 308 IPC to Section 323 IPC. In this context, the Trial Court noted the circumstances leading to the alleged incident, observing that Petitioner No. 1 had brought the *fawda* onto the premises



under the pretext of removing cement from a drainage, which precipitated the quarrel with the Complainant. The Court further took into account the nature of the weapon involved, a *fawda*, which was used twice to strike the Complainant on the head, with the active assistance of the co-accused. The injuries sustained by the Complainant were also duly considered. In light of these factors, the Trial Court opined that although the accused may not have harboured a specific intention to cause death; however, the use of a weapon like *fawda* by Petitioner No. 1, in concert with five other individuals, reflected knowledge that the act was likely to cause death.

9. In the aforesaid circumstances, this Court is of the view that, at the stage of framing of charge, there existed sufficient material to raise a presumption regarding the commission of an offence under Section 308 of IPC, *i.e.*, attempt to commit culpable homicide not amounting to murder. This Court finds no perversity or illegality in the reasoning adopted by the Trial Court which would justify interference in the exercise of revisional jurisdiction. Accordingly, the Court is not inclined to allow the Petitioners' request.

10. It is clarified that the observations made in this order are limited to the adjudication of the present petition and shall not influence the Trial Court at the stage of final determination of the case.

11. In view of the above, the petition is dismissed along with pending application(s).

SANJEEV NARULA, J

JULY 14, 2025/nk