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

+ **CRL.REV.P. 298/2025 & CRL.M.A. 22835/2025**

SH NARENDER KUMARPetitioner
Through: Mr. Dhananjay Singh
Sehrawat & Ms. Ritika,
Advs.

versus

STATE GOVERNMENT NCT OF DELHIRespondent
Through: Mr. Sunil Kumar Gautam,
APP for the State.
SI Sunil Kumar, DIU/
Outer Distt.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
20.11.2025

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1. The present petition is filed against the order dated 25.04.2025 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), Tis Hazari Courts, Delhi in Case No. 353/2022, whereby charges were framed against the petitioner for the offences under Sections 306/34 of the Indian Penal Code, 1860 ('**IPC**') arising out of FIR No. 869/2019.
2. Briefly stated, the present FIR was registered on the basis of the dying declaration of the victim. It is alleged that the victim had filed a complaint under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('**SC/ST Act**') at Police Station Nihal Vihar against co-accused ASI Vijay Kumar as he had allegedly misbehaved with him and used caste related remarks against him. It is alleged that pursuant to the

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aforesaid complaint, the police officials kept harassing the victim and also threatened to implicate him in a false criminal case. The victim had allegedly also made audio video recordings of such threats on his mobile phone. It is alleged that at the behest of co-accused ASI Vijay Kumar, the petitioner slapped the victim and snatched his phone. It is alleged that the victim, out of sheer frustration and fear of the police, went to Nihal Vihar police station, took petrol from his bike and set himself on fire. The victim could not recover from his burn injuries and subsequently died.

3. By the impugned order, the learned ASJ framed charges against the petitioner for the offence under Sections 306/34 of the IPC. The learned ASJ took into account the dying declaration of the victim, and also considered the previous complaint filed by the victim under the SC/ST Act against co-accused ASI Vijay Kumar. The learned ASJ also took note of the statement of witness Anil Parewa who categorically stated that he was present in the police station and saw the victim making a video recording, pursuant to which the petitioner snatched his mobile phone and gave beatings to him.

4. The learned counsel for the petitioner submits that the learned Trial Court erred in framing charges against the petitioner for the offence under Sections 306/34 of the IPC.

5. He submits that in the facts of the present case, the ingredients of the offence under Section 306 of the IPC are not made out. He submits that there is an absence of *mens rea* to affirm that the petitioner abetted the victim to commit suicide.

6. He submits that the petitioner was only discharging his



duties under his official capacity and mandatory sanction to prosecute a police officer discharging his duties, as required under Section 197 of the Code of Criminal Procedure, 1973 ('CrPC') has not been taken.

7. He submits that no grave suspicion arises against the petitioner for the purpose of framing of charge and submits that charges have been framed in a routine and mechanical manner against the petitioner.

8. He submits that there are three other eye-witnesses of the alleged incident who have given different accounts of the incident and have not supported the allegations of the victim. He submits that the said witnesses have categorically stated that no misbehavior was meted out to the victim inside the police station and that the victim himself was creating a scene inside the police station. He submits that these eye-witnesses have further stated that the victim himself had given his phone to Anil Parewa to make a video if anything wrong happened to him and the said witnesses have also denied that any beatings were given to the victim.

9. I have heard the counsel and perused the record.

10. Since the petitioner has assailed the impugned order whereby charges were framed against the petitioner for the offence under Sections 306/34 of the IPC, it will be apposite to succinctly discuss the statutory law with respect to framing of charge and discharge as provided under Section 227 and 228 of the CrPC. The same is set out below:

"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 not sufficient



ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of Charge

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, 1 [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

11. The Hon’ble Apex Court, in the case of **Sajjan Kumar v. CBI : (2010) 9 SCC 368**, has culled out the following principles in respect of the scope of Sections 227 and 228 of the CrPC while observing that a *prima facie* case would depend on the facts and circumstances of each case. The relevant paragraphs read as under :

“21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC 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. The test to determine *prima facie* case would depend upon the facts of each case.

(ii) **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 a charge and proceeding with the trial.**

(iii) **The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and**



the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(emphasis supplied)

12. The Hon'ble Apex Court in the case of ***State of Gujarat v. Dilipsinh Kishorsinh Rao*** : 2023 SCC OnLine SC 1294 has discussed the parameters that would be appropriate to keep in mind at the stage of framing of charge/discharge, as under:

“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which



prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

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12. 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. This Court by referring to its earlier decisions in the *State of Maharashtra v. Som Nath Thapa*, (1996) 4 SCC 659 and the *State of MP v. Mohan Lal Soni*, (2000) 6 SCC 338 has held 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 is also held 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.”

13. It is pertinent to note that at the stage of framing of charge, the Court is only tasked to evaluate the material for the purpose of finding out if the facts constitute the alleged offence, given the ingredients of the offence. In doing so, the Court is not to sift the material in a manner so as to make the exercise akin to a mini trial to ascertain the guilt of the accused. Thus, while framing charges, the Court ought to look at the limited aspect of whether, given the material placed before it, there is grave suspicion against the accused which is not properly explained.

14. In the present case, the victim gave a dying declaration against the accused persons alleging that their acts of harassment led the victim to commit suicide. The victim, in his dying



declaration, made specific allegations against the petitioner that the petitioner abused him, snatched his phone and gave beatings to him which led the victim to commit such an act. Moreover Anil Parewa, who is an eye witness to the incident has reaffirmed the allegations against the petitioner.

15. The learned counsel for the petitioner has emphasised that the petitioner was only discharging his duties under his official capacity and the mandatory sanction to prosecute a police officer discharging his duties, as required under Section 197 of the CrPC has not been obtained in the present case.

16. The learned ASJ rightly noted in the impugned judgment that the alleged acts of the petitioner can, by no stretch of imagination, be considered to have been done while discharging his official duty or within the colour of his duty or even exceeding his official duty. The alleged acts of beating and snatching the phone of the victim at the behest of another officer who had allegedly threatened and used casteist remarks against the victim can, as rightly appreciated by the learned ASJ, cannot be considered to have been done under the colour of duty. The learned ASJ rightly noted that such acts are independent of the petitioner's official duties and do not fall within the purview of sanction under Section 197 of the CrPC.

17. It has further been emphasised by the petitioner that there were three witnesses present at the spot who have given a different account of the alleged incident and have not supported the dying declaration of the victim. The credibility of the statements of the witnesses present at the police station deposing in favour of police officials at this stage does not inspire



confidence and would be tested at the time of trial and no benefit can accrue in favour of the petitioner at this stage.

18. It is further contended by the learned counsel for the petitioner that the ingredients of Section 306 of the IPC are not made out and contends that no *mens rea* can be attributed to the petitioner in abetting the victim to commit suicide.

19. However, as noted above, at the stage of framing of charge, the Court has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on the basis of the material produced in the chargesheet.

20. It is not in doubt that serious allegations have been levelled in the present case pertaining to the victim committing suicide at a police station as a consequence of the alleged atrocities meted out to him by the accused persons. From a perusal of the record, it is apparent that the victim has also made specific allegations against the accused persons in relation to the alleged acts committed by them. The allegations levelled against the accused persons are serious in nature and cannot be taken lightly.

21. The question in regard to the *mens rea* of the petitioner to abet the victim to commit suicide cannot be commented upon at this stage and would be examined during the course of the trial. At this stage, however, considering the dying declaration of the victim and the allegations levelled against the petitioner, in the opinion of this Court, there is grave suspicion against the petitioner which is not properly explained in order to frame charge under Sections 306/34 of the IPC.

22. In view of the aforesaid discussion, this Court does not



find any infirmity in the impugned order, and the same cannot be faulted with.

23. The present petition is accordingly dismissed.

AMIT MAHAJAN, J

NOVEMBER 20, 2025

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