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

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CRR No. 1118 of 2023 (O&M)
Date of decision : 27.04.2026

Jagtar Singh and others**...Petitioners****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate
for the petitioners.

Ms. Himani Arora, DAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant revision petition has been filed by the petitioners challenging the order dated 27.02.2023, passed by the Court of learned Additional Sessions Judge, Gurugram in case arising out of FIR No. 138 dated 23.02.2022, registered under Sections 148, 149, 307, 323, 325, 506 and 120-B of IPC at Police Station Ladwa, whereby the petitioners were chargesheeted for commission of offences punishable under Sections 148, 323, 325, 506 and 307 of IPC read with Section 149 of IPC.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by complainant Sarupinder Singh alleging that in the morning of 21.02.2022, while he along with his brother was going back from a temple, he was intercepted by four youths with covered faces, who were

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armed with weapons and who opened an assault upon him, thereby causing injuries with their respective weapons and also snatched an amount of Rs.6,000/- kept in his pocket by extending threats to kill him. On clamour being raised by his brother and himself, some persons had reached there and then the assailants had fled away. He also alleged that he could identify the assailants on seeing them.

3. After registration of the FIR, investigation proceedings were initiated. On 01.03.20225, the complainant recorded his supplementary statement to the effect that on the fateful day, there were 8-9 persons, who were armed with weapons and one of whom was holding a pistol. He recorded that the said pistol was shown to him by that youth and threats were extended to him. He further recorded that on checking from CCTV cameras installed in the shop nearby the site of occurrence, he had identified his assailants and disclosed their names as Arman, Parvinder Singh, Jagtar Singh @ Fauji, Ankit Kumar @ Dilawar Singh, Prinkal, Rajat @ Paasi, Gulfaan Ali @ Golu and Tinku Kumar. On the basis of this statement, the petitioners were nominated as accused. They were arrested during the course of investigation. After completion of investigation, challan has been submitted.

4. Vide impugned order, the petitioners have been chargesheeted for commission of aforementioned offences. Feeling aggrieved from the fact that charge under Section 307 of IPC has been framed against them, they have filed the present petition laying challenge to the same.

5. It is argued by learned senior counsel for the petitioners that they have been falsely implicated in this case. They were not named in the FIR and

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were nominated as accused in pursuance of a supplementary statement recorded by the complainant after a delay of nine days from the date of occurrence. Even the FIR was registered after a gap of two days. It is further argued that as per the medico-legal report of the complainant, some lacerated wounds were found on his person. All the injuries so sustained by him were on non-vital part of the body. The complainant was found to be conscious and well oriented at the time when he had reached at the hospital. In fact, the petitioners and the complainant are close relatives. They could have been easily identified by the complainant even if some of them were with muffled faces. The fact that the complainant waited for a period nine days to implicate them itself falsifies the prosecution version. No injury sustained by the complainant has been opined to be dangerous to life. No firearm has been injury sustained by the complainant. The ingredients for commission of offence punishable under Section of 307 of IPC have not been attracted at all. While framing charge under this section, the learned trial Court did not apply its judicious mind. With these broad submissions, it is urged that the impugned order be set aside to the extent to which charge under Section 307 of IPC has been framed and the petitioner be discharged of the said offence.

6. *Per contra*, learned State counsel has argued that there is no illegality or infirmity in the impugned order. The allegations levelled against the petitioners make out a prima facie case for commission of offence punishable under Section 307 of IPC. The petitioners, in furtherance of their common intention, had opened an assault upon the complainant. They had caused injury on the head of the victim/complainant. The same could have

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been proved fatal resulting into his death. Injuries so received by the victim might not have been opined to be dangerous to life but that does not mean that no attempt to cause death of the victim/complainant had made been made by the petitioners. Hence, it is urged that the impugned order does not warrant any interference and the petition is liable to be dismissed.

7. This Court has heard the rival submissions.

8. Before delving into the correctness of the impugned order whereby the learned trial Court had passed order for framing charges under Sections 307 read with Section 149 of IPC along with other sections, this Court considers it necessary to reiterate the well settled proposition of law pertaining to the framing of charges and the scope of this Court to interfere under Sections 397 and 401 of Cr.P.C.

9. In this context, reference can firstly be made to a celebrated pronouncement of Hon'ble Supreme Court cited as '***Union of India Vs. Prafulla Kumar Samel, (1979) 3 SCC 4***' wherein the the following principles had been laid down while dealing with the question of discharge under Section 227 of Cr.P.C. or framing of charge under Section 228 of Cr.P.C. The relevant para is reproduced as under:-

10. "Thus, on a consideration of the authorities mentioned above, the following principles emerge:

1. That the Judge while considering the question of framing the charges under Section 227 of the Code 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.

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2. *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.*

3. *The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*

4. *That in exercising his jurisdiction under Section 227 of the Code the Judge, which under the present Code is a senior and experienced 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 appearing in the case and so on. This, however, does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”*

(Emphasis supplied)

10. Reliance can also be placed upon ‘**Sajjan Kumar Vs. CBI, (2010) 9 SCC 368,**’ wherein the Hon’ble Supreme Court had considered the powers of Courts in respect of framing of charge and discharge and the fact that a *prima facie* case would depend upon the facts and circumstances of each case and had laid down the following principles:-

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“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 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. The test to determine prima facie cases 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

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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)

11. It has been held time and again by the Hon’ble Supreme Court that at the stage of framing of charges, the Court possesses the power to sift and weigh the evidence for the limited purpose of ascertaining whether or not a *prima facie* case has been made out against the accused. The trial Court must exercise its judicial mind to the facts of the case before arriving at a conclusion that there is sufficient ground for proceeding against the accused. It has been observed that such exercise must be undertaken so as to ensure that an individual does not have to be put through the rigors of the criminal judicial system for no fault of his. The sufficiency of grounds would take within its fold the nature of the evidence recorded by the police or documents produced before the Court which *ex facie* disclose that there are suspicious

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circumstances against the accused so as to frame charge against him. Reference in this regard can also be had to the observations made by Apex Court in '*P. Vijayan Vs. State of Kerala, (2010) 2 SCC 398*' and '*Vishnu Kumar Shukla and another Vs. State of Uttarpradesh and another, AIR 2024, Supreme Court 90*'.

12. The ratio of law as laid down in the above cited authorities is that while framing of charge, the very foundation of formation of opinion is that as to whether there is sufficient material on record to '*prima facie*' make out a case of commission of an offence. The word *prima facie* when used in terms of *prima facie* view as far as consideration on the point of framing charge is concerned, would certainly means there being enough material for substance which would give rise to strong suspicion against the accused and holding of a view in favour of the prosecution.

13. In view of the above discussion qua proposition of law with regard to framing of charge, now the question that requires consideration by this Court is as to whether the learned trial Court had rightly proceeded to frame charge under Section 307 of IPC against the petitioners or not? As per this provision, any person who does any act with such intention or knowledge, and under such circumstances that, if by that act he caused death, he would be guilty of murder, commits the offence of attempt to murder. For the purpose of an offence to fall under Section 307 of IPC, the most material ingredient is intention or knowledge. It is a well settled proposition of law that the existence of intention or knowledge to cause death is the essential ingredient, and the actual consequence of the act done in pursuance of such intention is

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not material. It is also well settled that to justify conviction under Section 307 of IPC, it is sufficient that there is an intent coupled with some over act in execution thereof. It is not essential that actual injury capable of causing death must be inflicted. This section makes a distinction between the act of accused and its result, if any. The Court is required to see whether the act, irrespective of its result, was done with the intention or knowledge and under the circumstances mentioned in the provision. Though, use of dangerous weapons including firearm per se might not constitute an offence under Section 307 of IPC but at the same time, it is the intention, with which the weapon is used, that would matter. To establish offence under this section, there need not be a grave injury but if the act is done endangering the life of the victim, the rigors of this section would definitely be attracted.

14. In the present case, as per the medico legal report, the complainant had sustained fractures on second and fifth metacarpal bone. He made complains of visual problems and heaviness in the head. Contusion was found on his head temporal region and he was advised to contact eye-surgeon. As per the record, CCTV footage showed two of the petitioners while giving blow with a hammer on the head of the complainant. The victim might not have sustained any grievous injury on his head but taking into consideration the fact that the hammer was used to cause injury on his head, it prima facie shows the intention of the petitioners to cause his death. In light of the aforesaid facts and the material available on record, this Court is of the considered view that the nature of the weapon used, the vital part of the body targeted and the manner in which the assault was carried out, as reflected from

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the medico-legal report as well as the CCTV footage, prima facie disclose the requisite intention or knowledge attributable to the petitioners so as to attract the provisions of Section 307 of IPC. The contention regarding absence of grievous or life-threatening injury pales into insignificance at this stage in view of the settled legal position that the intention behind the act is of paramount consideration. At the stage of framing of charge, only a prima facie view is to be formed on the basis of material on record and a detailed appreciation of evidence is neither warranted nor permissible. This Court finds no illegality, perversity or jurisdictional error in the impugned order passed by the learned trial Court warranting interference in exercise of revisional jurisdiction. Consequently, the present petition, being devoid of merit, is hereby dismissed.

27.04.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No