

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

2026.PHHC.072767



CRR-1144-2026 (O&M)
Date of decision : 12.05.2026

State of U.T., Chandigarh**...Petitioner****Versus****Sonu Yadav @ Kaddu and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA****Present:- Mr. Rahul Arora, Addl. P. P., U.T. Chandigarh.****MANISHA BATRA, J. (Oral)**

1. The present revision has been filed against the impugned order 23.12.2025, passed by the Court of learned Additional Sessions Judge, Chandigarh in case arising out of FIR No.70 dated 02.09.2024, registered under Sections 351(3), 126(2), 115(2), 190, 190(2), 191(3) and 109 of BNS, 2023 at Police Station Maloya, Chandigarh, whereby the prayer of the petitioner/U.T, Chandigarh for framing charges under Section 109 of BNS along with charges under other sections had been declined and it was directed that the case be put up before learned Sessions Judge so that it can be assigned to a Court of Magistrate as all the other offences were triable by the Magistrate.

2. Brief facts of the case relevant for disposal of this petition are that on receipt of an information on emergency number 112 about admission of some persons in injured condition in GMCH Sector-16, Chandigarh, a police party immediately reached there. The police party met complainant

Deepak in the hospital, who recorded his statement to the effect that the respondents/accused Birender alias Biri, Sonu Yadav alias Kadhu, Aman alias Muthal and Sanjay, who were residents of EWS Colony, Maloya, Chandigarh, were keeping grudge against him and had been harassing him for some time. It was further alleged that a few days prior to the occurrence, the accused persons had come near his house with intention to pick up a quarrel, whereupon he somehow managed to escape. As per the allegations, on 01.09.2024 at about 9:30 PM, when the complainant had gone towards the market on foot and reached near the local bus stop, the aforesaid accused armed with weapons along with 2-3 other boys arrived there in an auto-rickshaw and encircled him. The accused persons opened an attack upon the complainant in furtherance of their common intention and inflicted injuries on his head, chest, hands and both legs by means of rod, danda, sligger and knife, while raising exhortations that he should be eliminated. After assaulting him and leaving him in an injured condition, the accused persons allegedly fled away from the spot in the same auto-rickshaw. After registration of the FIR, investigation proceedings were initiated. The complainant was medico-legally examined.

3. After completion of necessary investigation, challan was presented before the jurisdictional Magistrate. Since the provisions of offence under Section 109 of BNS were invoked against the accused persons, the case was committed to Court of Sessions. However, the Court of learned Additional Sessions Judge, by passing the impugned order to the effect that no offence under Section 109 of BNS was made out against the accused,

relegated the case for conducting trial by a Magistrate. The impugned order dated 23.12.2025 reads as under:

“1. In the present case, challan was presented against the accused persons under Sections 351 (3), 115 (2), 126 (2), 190, 191 (2), 191 (3) and 109 B.N.S.

2. Today, learned defence counsel has argued that in the present case as per MLR five injuries were sustained by complainant-injured Deepak son of Lal Bahadur and out of those injuries as per medical opinion, injuries No.3 and 4 were declared grievous in nature and injuries No.1, 2 and 5 were declared simple in nature. It has been submitted that the injuries which were declared grievous in nature were sustained on right and left leg and therefore keeping in view the location of the injuries and there being no medical opinion to the effect that the said injuries were dangerous to life, at this stage, there is no prima facie evidence regarding commission of offence punishable under Section 109 BNS.

3. Ld. Additional Public Prosecutor for the State has submitted that as per M.L.R. five injuries were sustained including one injury being lacerated wound left temporal parietal area. Therefore, prima facie case for commission of offence under Section 109 BNS is made out.

4. I have heard the parties and have gone through the record of the case.

5. The present case was registered on the statement of complainant Deepak son of Lal Bahadur who stated that on 01.09.2024 he was caused injuries by accused persons on his head, chest and legs. There is on record, MLR of complainant-injured Deepak son of Lal Bahadur who sustained 5 injuries which are detailed hereasunder:-

1. C/o pain left shoulder with left forearm, advised ortho opinion.

2. Lacerated wound left temporal parietal area advised NCCT head surgery opinion.
3. C/o pain in left leg with Knee, advised ortho opinion
4. C/o pain in right leg with knee, advised ortho opinion.
5. C/o pain in chest, advised surgery opinion.

6. There is also on record, the subsequent medical opinion regarding nature of injuries sustained by complainant-injured Deepak. According to the said medical opinion, the aforesaid injuries No.3 and 4, which were on right and left leg were declared grievous in nature and injuries No.1, 2 and 5 were declared simple in nature. As per X-Ray report filed along with the Challan there were fractures on Right and Left Legs. As per Medico Legal Case summary, complainant was admitted on 06.09.2024 and was discharged on 08.09.2024. Learned Additional Public Prosecutor has not been able to bring to the notice of this Court any medical opinion to the effect that nature of any injury was declared to be dangerous to life.

7. In view of the aforesaid facts and circumstances, therefore, at this stage, no prima facie case is made out for commission of offence punishable under Section 109 B.N.S. and remaining offences are triable by the Court of Magistrate. Hence, file of the present case be put up before learned Sessions Judge, Chandigarh on 07.01.2026 with request to assign the case to the concerned Court of any Magistrate. Accused who are on bail are directed to appear before learned Sessions Judge, Chandigarh on 07.01.2026.

File be sent to the said Court complete in all respects.

4. Aggrieved from the aforesaid order, the petitioner/U.T, Chandigarh has filed the present petition.

5. Learned Additional Public Prosecutor, Chandigarh has argued that the impugned order is not sustainable in the eyes of law as the learned

Additional Sessions Judge, Chandigarh failed to appreciate the material collected during investigation in its proper perspective. It is argued that specific allegations have been levelled in the FIR against the respondents/accused persons that they had formed an unlawful assembly, came armed with deadly weapons including danda, iron pipe, knife and sligger and brutally attacked the complainant Deepak while raising exhortations that he should be eliminated. The complainant sustained multiple injuries on vital parts of the body including head, chest and both legs and as per the MLR as well as subsequent medical opinion, fractures were found on both legs which were declared grievous in nature. Learned Addl. P.P. further submits that the nature of assault, the weapons used, the repeated blows inflicted by several assailants and the exhortation raised during the occurrence clearly establish the intention and knowledge attributable to the accused persons for commission of offence punishable under Section 109 of the BNS. However, the Court concerned gravely erred in holding that no *prima facie* offence under Section 109 BNS was made out merely because there was no specific medical opinion declaring the injuries to be dangerous to life. It is argued that at the stage of charge, the Court is only required to examine whether a *prima facie* case exists on the basis of allegations and material collected during investigation and not to conduct a meticulous appreciation of evidence. Learned counsel submits that the impugned order amounts to premature evaluation of evidence and has resulted in improper relegation of the case to the Court of Magistrate despite the serious nature of allegations and injuries suffered by the complainant. Therefore, prayer has been made for setting aside the impugned order and for directing the learned trial Court to

proceed with the case in accordance with law for offence punishable under Section 109 BNS as well.

6. This Court has heard the submissions made by learned Addl. P.P. for Chandigarh at length, besides going through the material placed on record.

7. Before delving into the correctness of the order whereby the learned trial Court concerned had observed that no prima facie case for commission of offence under Section 109 of BNS was made out against the respondents/accused persons, 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.

8. 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 following principles had been laid down while dealing with the question of discharge under Section 227 of Cr.P.C. (which corresponds to Section 250 of BNSS) 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.

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.”*

9. 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:-

“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 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”.

10. 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 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*’.

11. Recently, in a case cited as ‘*Shashikant Sharma and others Vs. State of Uttar Pradesh and another 2024(1) RCR (Criminal) 67*’, the Hon’ble Supreme Court observed that if from the admitted evidence of the prosecution, as reflected in the documents filed by the investigating officer in

the report under Section 173 Cr.P.C., the necessary ingredients of an offence are not made out, then the Court is not obliged to frame charge for such offence against the accused.

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. On applying the above discussed proposition of law to the peculiar facts and circumstances of the present case, it is noticed that the allegations levelled in the FIR as well as the material collected during investigation undoubtedly disclose commission of offences relating to voluntarily causing hurt/grievous hurt by members of an unlawful assembly. However, the limited question which arises for consideration before this Court is as to whether the material available on record *prima facie* discloses commission of offence punishable under Section 109 of BNS so as to justify trial of the case by the Court of Sessions. A perusal of the medico legal record placed on record would show that the complainant Deepak had sustained five injuries, out of which injuries No.3 and 4 pertaining to right and left legs were opined to be grievous in nature on account of fractures, whereas injuries No.1, 2 and 5 were specifically declared simple in nature. Significantly, although one injury was found on the temporal parietal region, but there is no medical

opinion on record to suggest that the said injury was dangerous to life or sufficient in the ordinary course of nature to cause death. Even the subsequent medical opinion relied upon by the prosecution does not attribute any life threatening consequence to any of the injuries sustained by the complainant. The complainant remained admitted in the hospital only from 06.09.2024 to 08.09.2024 and no material has been placed on record to indicate that his condition at any point of time had become critical or imminently dangerous to life.

14. This Court is conscious of the settled proposition that at the stage of framing of charge, meticulous appreciation of evidence is impermissible and the Court is only required to ascertain whether the material gives rise to grave suspicion regarding commission of the alleged offence. At the same time, it is equally well settled that mere allegations in the FIR or use of expressions such as “deadly attack” or exhortations to eliminate the complainant cannot by themselves constitute sufficient ground to frame charge for an offence of attempt to culpable homicide/murder unless the essential ingredients constituting such offence are prima facie borne out from the attendant circumstances, nature of injuries, seat of injuries, medical evidence and the manner of occurrence.

15. In the present case, despite there being allegations that blows were inflicted on the head, no grievous or life threatening injury has been found on any vital organ of the body. The grievous injuries are confined to fractures on both legs. The weapons allegedly used, though capable of causing serious injuries, did not ultimately result in any injury declared dangerous to life. The prosecution has also failed to place on record any medical opinion

suggestive of imminence of death or such bodily injury which could reasonably indicate the intention or knowledge necessary to attract Section 109 of BNS. Thus, the material available on record, even if taken at its face value, raises suspicion regarding commission of offences punishable under the other provisions invoked in the FIR, but falls short of creating the grave suspicion necessary for framing charge under Section 109 of BNS.

16. The learned Additional Sessions Judge, Chandigarh, while passing the impugned order, has duly considered the nature of injuries, subsequent medical opinion and the overall material collected during investigation and thereafter arrived at a conclusion that no prima facie case under Section 109 of BNS was made out. This Court does not find that the said conclusion suffers from any patent illegality, perversity or misreading of evidence warranting interference in exercise of revisional jurisdiction. Rather, the impugned order reflects a proper and judicious exercise undertaken by the Court concerned within the limited scope permissible at the stage of consideration of charge. Consequently, this Court is of the considered opinion that the present revision petition is devoid of merit and deserves dismissal. Accordingly, the same stands dismissed. The impugned order dated 23.12.2025 passed by the learned Additional Sessions Judge, Chandigarh is hereby affirmed.

12.05.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No