

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

CRM-M-45845-2021 (O&M)

Kapoor
...Petitioner

Versus

State of Haryana and others
...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	23.04.2026
2	The date when the judgment is pronounced	28.04.2026
3	The date when the judgment is uploaded on the website	28.04.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rakesh Dhiman, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

Mr. Aayush Gupta, Advocate
for respondent No. 2.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (*for short 'Code'*) for quashing of order dated 25.08.2021 (Annexure P-5), passed by the Court of learned Additional Sessions Judge, Jhajjar in criminal revision petition bearing No. CRR-86-2018 arising out of case bearing FIR No. 419 dated 02.06.2021, registered under Sections 148, 149, 323, 506 and 34 of IPC at Police Station Sadar Jhajjar, District Jhajjar, whereby while allowing the said revision petition, the order

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dated 06.08.2018 passed by the learned trial Court qua not framing charge under Section 452 of IPC, was set aside and a direction was given to the learned trial Court for passing a fresh order.

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 Pooja alleging that on 29.05.2017, the proforma respondents/accused, by forming membership of an unlawful assembly, had entered into her house and in prosecution of their common object, had voluntarily caused injuries to her and also criminally intimidated her. Though the FIR was registered under Section 452 of IPC apart from some other offences, but challan had not been filed under Section 452 of IPC. The learned trial Court heard arguments on charge and by observing that no prima facie case for framing of charge under Section 452 of IPC was made out, proceeded to frame charges under Sections 148, 149, 323, 506 and 34 of IPC. Feeling aggrieved, respondent No. 2/complainant filed the aforementioned revision petition, which was allowed in the manner as indicated above.

3. It is argued by learned counsel for the petitioner that the impugned order dated 25.08.2021, thereby setting aside the order of not framing charge under Section 452 of IPC, is not sustainable in the eyes of law and is liable to be set aside as the learned trial Court had passed a detailed and well reasoned order for not chargesheeting the petitioner and proforma respondents/other accused for commission of punishable under Section 452 of IPC. During the course of investigation, statements of the other witnesses had been recorded who had disclosed that the occurrence had in fact not taken within the house of the complainant as claimed by her. Rather, it had taken

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place outside her house. However, learned revisional Court did not consider the material placed on record in a proper perspective and committed a grave error in allowing the revision petition. It is, therefore, urged that the petition deserves to be allowed, the impugned order is liable to be set aside and the order passed by the learned trial Court deserves to be upheld.

4. On the other hand, learned State counsel, assisted by learned counsel for respondent No.2/complainant, has argued that there is no illegality of infirmity in the impugned order passed by the learned revisional Court, which is a well reasoned order. The same does not warrant any interference by this Court. Hence, it is stressed that the petition is liable to be dismissed.

5. This Court has heard the rival submissions made by learned counsel for the parties.

6. It is relevant to mention that vide order dated 31.10.2022, passed by this Court, the learned trial Court was directed to proceed further with the trial but passing of the final judgment had been stayed. It has been brought to the notice of this Court that charges under Section 452 of IPC have been framed by the learned trial Court and trial is also going on.

7. Before delving into the correctness or legality of the impugned order, 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 the 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

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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.

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."

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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

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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

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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. 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.

12. On applying the above discussed proposition of law to the peculiar facts and circumstances of the present case and on a perusal of the impugned order passed by the learned revisional Court, this Court is of the considered opinion that it has not proceeded in a casual or mechanical manner. Rather, the learned revisional Court has minutely examined the material collected during investigation and has recorded a categorical *prima facie* satisfaction regarding the applicability of Section 452 of IPC. As noticed, the statement of the complainant specifically attributes entry of the accused into her house and assault therein. The site plan also reflects the place

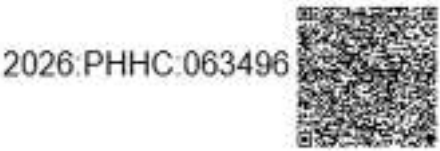
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of occurrence inside the residential premises and even the medico-legal reports record the history of assault at home. Further, disclosure statements of the accused and statements under Section 161 of the Code also support the version of the occurrence having taken place within the house.

13. In view of such material on record, the learned revisional Court rightly held that a *prima facie* case under Section 452 IPC was made out. The contention raised on behalf of the petitioner that certain witnesses have stated that the occurrence took place outside the house or that the police did not include Section 452 of IPC in the challan does not persuade this Court to take a different view. At the stage of framing of charge, the Court is not required to meticulously appreciate evidence or test its veracity; rather, the existence of strong suspicion founded on material on record is sufficient. The revisional Court has thus correctly applied the settled principles governing the stage of charge.

14. It is also significant that the learned revisional Court has not recorded any conclusive finding on merits but has only directed reconsideration on the limited issue of framing of charge keeping in view the material available. Such an approach is in consonance with law, particularly when omission to frame an appropriate charge at the initial stage may result in failure of justice at the conclusion of trial. It is also significant to mention that pursuant to passing of the impugned order, the learned trial Court has already framed charge under Section 452 of IPC and the trial is presently going on. The petitioner would have full opportunity to contest the prosecution case, cross-examine witnesses and raise all permissible pleas during trial. The veracity, reliability and evidentiary value of the material relied upon by the



prosecution are matters to be adjudicated upon at the appropriate stage and not in proceedings under Section 482 of the Code (which corresponds to Section 528 of BNSS).

15. In view of the above, no patent illegality, perversity or jurisdictional error is made out in the impugned order warranting interference by this Court in exercise of its inherent powers. Hence, the petition, being devoid of merit, is accordingly dismissed.

28.04.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>