IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No. 921 of 2025

Paritosh Kumar. …….Revisionist.

Versus

State of Uttarakhand
and another. ……Respondents.

Present:
Mr. D.C.S. Rawat, learned counsel for the revisionist.
Mr. G.S. Sandhu, learned Addl. Advocate General with Mr. Himanshu Sain, learned AGA for the State.
Mr. Rajiv Dewan and Mr. Manoj Kumar, learned counsel for the complainant.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. The instant revision has been preferred by the revisionist Paritosh Kumar challenging the order passed by the Addl. Sessions Judge, Kotdwar, District Pauri Garhwal, in Sessions Trial No. 23 of 2025 (State Vs. Reena Sindhu and another) whereby charges have been framed against present revisionist and another accused – Reena Sindhu for the offence punishable under Section 3 (5), 61 (2), 103 (1) and 238 of BNS, 2023.

2. Learned counsel for the revisionist argued that impugned order of framing charges suffered from gross illegality impropriety, since the trial court has framed composite charge against both the accused persons. He further submits that present revisionist has been implicated in the present case only on the basis of recovery of "shovel" from the house of the revisionist and recovery of deceased's car, on his pointing out.

3. On the other side, Mr. G.S. Sandhu, learned Addl. Advocate General for the State, has vehemently opposed the submissions of learned counsel for the revisionist and submits that there are sufficient material to establish that present revisionist is involved in the present crime, therefore, all the arguments as advanced by learned counsel for the revisionist

are in fact the subject matter of trial and have no relevance at this stage.

4. Mr. Sandhu further argued that all the submissions advanced by Mr. Rawat are thoroughly misconceived, at this stage, since under revisional jurisdiction the Court can only examine the jurisdictional error, correctness, illegality or procedural impropriety or irregularity in the procedure and it focuses on legality or propriety rather than re-appreciating the evidence. He further submits that revisional jurisdiction mandates to check the correctness, legality and propriety of the sentence or order. In addition to this, he submits that while exercising the revisional jurisdiction, the Court at the most can examine whether there is proper compliance of the procedure, as laid down under the Rules.

5. This Court is fully convinced with the arguments as advanced by Mr. Sandhu.

6. So far as the order impugned framing charge is concerned Chapter XVII of the Code of Criminal Procedure, 1973 and corresponding Chapter XVIII of BNSS, 2023 deals with the charge. Section 234 of BNSS (corresponding Section 211 of Cr.P.C.) relates to contents of the charge, which reads as under:

> *"234. (1) Every charge under this Sanhita shall state the offence with which the accused is charged.*
>
> *(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.*
>
> *(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence*

must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(6) The charge shall be written in the language of the Court.

(7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit, to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed."

7. Section 235 of BNSS (corresponding Section 212 of Cr.P.C.) deals with particulars of time, place and person, which read as under:

"235. (1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to

give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 242: Provided that the time included between the first and last of such dates shall not exceed one year."

8. Section 237 of BNSS (corresponding Section 213 of Cr.P.C.) deals with the words in charge taken in sense of law under which offence is punishable, which reads as under:

"237. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable."

9. Section 238 of BNSS (corresponding Section 213 of Cr.P.C.) relates to effect of errors, which reads as under:

"238. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice."

10. On plain reading of the aforesaid provisions, it is clear that no doubt framing of charge is critical stage and charge must clearly state the offence with specific provisions of details of time, place and person and separate charge must be framed for each distinct offence and where there are more than one accused person against whom the charge has to be framed, then the charge for each of the accused should be framed by creating written accusation for each distinct offence and not only this, even while framing the charge the Court must read and explain these charges to each of the accused to ensure fair trial. If the two accused persons acted jointly, then in such an eventuality the charge has to be framed in term of Section 246 BNSS (corresponding Section 223 of Cr.P.C).

11. The purpose of framing of charge is to formally inform the accused the precise nature of the allegations against him in order to ensure fair trial by allowing them to prepare adequate defence.

12. The order of framing of charge is the foundation of the trial, it's scope is to streamline the proceeding by focusing on specific accusation. The purpose of framing of charge is to provide accused clear written details of offence adhering to principles of natural justice and it allows the accused to prepare his defence effectively and in fact, the order of framing charge is commencement of the trial and not only this, Section 237 of the BNSS (corresponding Section 214 Cr.P.C.) clearly stipulates that the words used in the charge are to be interpreted according to the specific legal meaning so that accused person, who face trial understand the language of the charge defend himself properly during trial.

13. Prima facie, the order impugned of framing of charge reveals that learned Addl. Sessions Judge, Kotdwar completely overlooked the mandate of law while framing the charges and framed the charges against both accused by composite order. The charges in respect of each of the accused person should be specific with their names, place, time and role, therefore, on perusal of the impugned order it reveals that learned Addl. Sessions Judge, has not applied its judicial mind while framing charge.

14. Accordingly, the instant revision is allowed by setting aside order impugned order dated 07.11.2025 by remitting the matter to the concerned court to pass order afresh of framing of charge, strictly as per mandate of Chapter XVIII of BNSS, 2023 within 15 days positively from the date of receipt of the order. Interim order of staying trial court proceeding is vacated.

15. No order as to costs.

(Rakesh Thapliyal, J.)
27.04.2026

SKS