



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on : 19.12.2025
Judgment pronounced on : 05.01.2026

+ **CRL.REV.P. 884/2023**

RAUSHAN KUMAR MISHRA & ANR.

.....Petitioners

versus

**THE STATE OF NCT OF DELHI
THROUGH SHO**

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Sauraj Yadav, Adv. for P1 (through VC)
Mr. Manoj K. Srivastava, Adv. for P2 (through VC)

For the Respondent : Mr. Sunil Kumar Gautam, APP for the State
Inspector Kishore Kumar, PS- V. K. (North)

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present petition is filed challenging the order dated 06.06.2022 (hereafter '**impugned order**'), passed by the learned Additional Sessions Judge ('**ASJ**'), New Delhi District, Patiala House



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Courts, New Delhi in the case arising out of FIR No.412/2021, registered at Police Station Vasant Kunj North.

2. By the impugned order, the learned ASJ found that there was sufficient material to charge Petitioner No.1 for the offences under Section 302 of the Indian Penal Code, 1860 ('**IPC**') read with Sections 120B and 201 of the IPC and Section 27 of the Arms Act, 1959, and to charge Petitioner No.2 for the offences under Sections 482 and 201 of the IPC. Consequently, charges were directed to be framed to this effect.

3. The brief facts of the case are as follows:

3.1. On 01.11.2021, a PCR call was received regarding gun shot at Mahipalpur, Delhi. The caller informed that his brother had been shot and he was taking his brother to the hospital. On enquiry, it was found that the victim was declared brought dead at the hospital. At the spot, blood and one empty cartridge as well as one fired bullet were found on the road. After postmortem, cause of death was opined as Craniocerebral damage as a result of Antemortem injury to head produced by projectile of a firearm.

3.2. The FIR was registered on the same day for offences under Sections 302/34 of the IPC and Section 27 of the Arms Act, 1959 on the statement of the victim's brother. The complainant alleged that the victim had leased out his hotel to Petitioner No.1, however, he was not paying rent and also not paying the electricity bill of the hotel, due to



which, the victim had asked Petitioner No.1 to vacate the property. The complainant suspected that Petitioner No.1 along with his associates were involved in the murder of the victim.

3.3. On 03.11.2021, Petitioner No.1 surrendered in the police station, and during interrogation, he confessed his role in the offence and further disclosed that he had decided to kill the victim as he was pressuring for payment of rent and electricity bill. He further disclosed that he had conspired with one Dilshad, who had stayed at the hostel on an earlier occasion, and asked him to arrange some persons for committing the murder of the victim. In pursuance of the conspiracy, Dilshad arranged a meeting between Petitioner No.1 and his associates— Golu (relative of Petitioner No.2), Guddu, Aveenash and two other persons in the month of September, 2021, whereafter, the victim was allegedly murdered on the instructions of Petitioner No.1. He further disclosed that it was decided that the accused Golu would come with his companions in a Maruti Swift car of Petitioner No.2.

3.4. During investigation, the workers of the hotel (that is, Mohd. Kasir and Prince) were examined and they stated that in September, 2021, one Sujeet, Golu, Guddu, Aveenash and Dilshad had stayed in the hotel with reference of Petitioner No.1, who had instructed the staff to take care of all their needs. Witness Mohd. Kasir identified most of the accused persons. He stated that on the date of the incident, a car had arrived at the hotel in which 5 boys were sitting. On reaching the car, the said witness saw that the accused Guddu was in the drivers



seat and the accused Golu was on the passenger seat, who had shot the victim by putting a pistol to his head. He further stated that the accused Golu had an argument with the victim and told him that Petitioner No.1 was his man. The accused also asked the victim as to how he dared to take back the hotel. While running, the accused Golu and his companions were allegedly saying that the one who takes back the hotel from Petitioner No.1 would have the same fate.

3.5. On 07.11.2021, Petitioner No.2 was arrested and the car used in the commission of the offence was recovered at his instance. It was found that the car was registered in the name of Petitioner No.2's wife and the accused persons had allegedly absconded in the car after commission of the offence. Allegedly, Petitioner No.2 had removed the original number plate of the car and replaced it with the previous number plate of the same car as a commercial vehicle. Further, Petitioner No.2 had parked the car at Nangloi Railway Station Parking so that the same could not be recovered.

3.6. Chargesheet was filed against Petitioner No.1 for the offences under Sections 302/34/201/120B of the IPC and against Petitioner No.2 for the offences under Sections 482/201 of the IPC.

3.7. By the impugned order, after considering the material on record including the statements of the victim's relatives and eye witnesses, the learned ASJ found that there was sufficient material on record to frame charge for the offence under Section 302 of the IPC read with Sections 120B/201 of the IPC and Section 27 of the Arms Act, 1959



against Petitioner No.1. Petitioner No.2 was charged for the offences under Sections 482 and 201 of the IPC as well.

3.8. Aggrieved by the same, the petitioners filed the present petition.

4. The learned counsel for the petitioners submitted that the petitioners have been falsely implicated in the present case. They submitted that the petitioners were not physically present at the spot of the incident.

5. The learned counsel for Petitioner No.1 stated that Petitioner No.1 was present at his residence in Greater Noida at the time of the incident and there is no direct evidence against him for having conspired to commit the offence.

6. He submitted that Petitioner No.1 had issued certain cheques in favour of the victim, which had bounced, and he was implicated merely on account of suspicion of the complainant.

7. The learned counsel for Petitioner No.2 submitted that the car allegedly used in the commission of the offence is registered in the name of Petitioner No.2's wife and Petitioner No.2 had not handed over the vehicle for use in commission of offence. He submitted that there is no direct evidence against Petitioner No.2 that he had changed the number plate of the vehicle.

8. The learned Additional Public Prosecutor for the State vehemently opposed the present petition and submitted that there is no



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infirmary in the impugned order. He submitted that Petitioner No.1 is the main accused as per the prosecution the motive for commission of the offence was ascribed to him and he had engaged the other accused persons for commission of the offence.

9. He further submitted that Petitioner No.2 is related to the accused who had shot the victim and the registration number of the car was changed so that the same could not be found.

ANALYSIS

10. At the outset, it is relevant to note that the scope of interference by High Courts while exercising revisional jurisdiction in a challenge to order framing charge is well settled. The power ought to be exercised sparingly, in the interest of justice, so as to not impede the trial unnecessarily. It is not open to the Court to misconstrue the revisional proceedings as an appeal and reappreciate the material on record. At the same time, it is well-settled that the Court may interfere if the allegations are patently absurd and the basic ingredients of the offence, for which the charge is framed, are not made out [Ref. ***Amit Kapoor v. Ramesh Chander : (2012) 9 SCC 460***].

11. The Hon'ble Apex Court, in ***Union of India v. Prafulla Kumar Samal : (1979) 3 SCC 4***, dealt with the scope of enquiry a judge is required to make with regard to the question of framing of charges. *Inter alia*, the following principles were laid down by the Court:



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“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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(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.”

(emphasis supplied)

12. 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 discharge and framing of charge, 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.



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(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)

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



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*“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.”*

(emphasis supplied)

14. The Court at the stage of framing of charge is to evaluate the material only for the purpose of finding out if the facts constitute the alleged offence, given the ingredients of the offence. Thus, while framing of charges, the Court ought to look at the limited aspect of



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whether, given the material placed before it, there is grave suspicion against the accused which is not properly explained. Though, for the purpose of conviction, the same must be proved beyond reasonable doubt.

15. It is the case of the prosecution that Petitioner No.1 had conspired with the other accused persons to get the victim killed due to some animosity over payment of certain dues, pursuant to which, the victim was shot dead on 01.11.2021. Further, the accused persons had destroyed/ removed the weapon used in commission of offence as well as the vehicle used in the crime. Allegedly, Petitioner No.2 had used a false registration plate on the concerned car. After receiving back the car, Petitioner No.2 had allegedly put another registration plate so that the car could not be found.

16. It is argued that the petitioners have been falsely implicated in the present case and much emphasis has been laid on the absence of direct evidence against the petitioners as well as their absence at the spot of the incident.

17. Undisputedly, it is not the case of the prosecution that either of the petitioners were present at the spot of incident. As noted above, it is alleged that the crime was committed at the behest of Petitioner No.1, who allegedly had some ensuing dispute with the victim over payment of dues. Similarly, it is not alleged that Petitioner No.2 was present during the commission of the offence either and the only role attributed to him is of trying to conceal the car used by the assailants



in fleeing after shooting the victim. Mere absence of the petitioners presence at the spot, *prima facie*, is not sufficient to negate the possibility of the petitioners' complicity in the respective offences.

18. Insofar as Petitioner No.1 is concerned, the learned ASJ has taken note of the facts that the family members of the victim, that is, Siddharth Sehrawat (son of victim), Suman Lata Sehrawat (wife of victim) and Ekant Sehrawat (son of complainant), have supported the story of prosecution in relation to the motive behind the offence of murder. A bare perusal of the statement of Siddharth Sehrawat, which was recorded under Section 161 of the Code of Criminal Procedure, 1973 ('CrPC'), reflects that he has categorically stated that the victim and Petitioner No.1 had disputes in relation to rent and other dues, and they had bickered on 28.10.2021 in relation to the same. He had also stated that when the victim had asked Petitioner No.1 to leave the hotel, he had threatened to kill the victim. Similarly, Mrs. Suman Lata also stated that Petitioner No.1 had threatened the victim prior to the incident and that the victim apprehended that Petitioner No.1 was plotting a conspiracy against him. The complainant had also relayed similar suspicions in his statement which led to registration of the FIR.

19. Although it is rightly argued that suspicion of the victim's relatives alone may not be sufficient to make out a *prima facie* case against Petitioner No.1, however, the ancillary circumstances in the present case invite significant suspicion against him, especially since the role of Petitioner No.1 is helmed in conspiring for the offence.



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20. Pertinently, the statements of eye witnesses–Mohd. Kasir and Prince *prima facie* reflect the prior association between Petitioner No.1 and the assailants. Mohd. Kasir in his statement has categorically stated that Petitioner No.1 had instructed staff to take care of the assailants who had stayed in the hotel from 13.09.2021 till 25.09.2021, and asked that no bill was to be taken from them. The said witness had witnessed the crime and he has stated that the accused Golu had stated that Petitioner No.1 is his associate (*‘Golu was saying that Roshan Mishra is my man’*) before shooting the victim. As per him, while fleeing, the accused Golu and his companions were saying that the one who takes hotel back from Petitioner No.1 would have the same fate.

21. The manager Prince also stated that the assailants had stayed in the hotel in September, 2021, and on 20.10.2021, the accused Golu, Guddu and Alok Rai had come to the hotel in the vehicle, which was later allegedly used in commission of offence. The said witness had even clicked a photo of the car. Although this Court does not consider it apposite to delve into the veracity of the statements tendered by the respective witnesses, the same along with the catering of the assailants at behest of Petitioner No.1 prior to incident at the time when the alleged conspiracy was hatched as well as the assertions of the assailants in regard to their association with Petitioner No.1 at the time of the incident and the prior enmity between the victim and Petitioner No.1 strongly indicate that there was a conspiracy between Petitioner No.1 and other accused to murder the victim.



22. Charges have been framed against Petitioner No.1 for the offences under Section 120B of the IPC, under Section 302 of the IPC read with Section 120B of the IPC, under Section 27 of the Arms Act, 1959, and under Sections 201 read with 120B of the IPC. It is imperative to note that direct evidence of conspiracy is often hard to come by and the same is usually proved by way of ancillary circumstantial evidence. It is not necessary that the accused actively participates in the commission of offence. At this juncture, in the opinion of this Court, there is sufficient material to show that Petitioner No.1 was involved in the conspiracy to murder the victim, and to thereafter hide the weapon as well as car used in commission of the offence.

23. As far as Petitioner No.2 is concerned, as noted above, his role is alleged to be limited to causing disappearance of the vehicle used by the assailants in commission of the offence by changing the registration number plate and parking the vehicle in the parking lot of a railway station. It is imperative to note that the eyewitness Mohd. Kasir has specifically stated the registration number of the car used by the assailants. The case of the prosecution against the said accused is helmed in the fact that the vehicle was recovered at his instance with a different registration number. The record indicates that Petitioner No.2 was apprehended at the parking lot of the railway station on the basis of secret information and the car was seized at his instance. On checking the engine number, the real number of the car was unearthed. Empty bullet shells were found in the car as well. Unfortunately, the



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learned ASJ has not made any specific observations in relations to Petitioner No.2 in the impugned order. Even so, while Petitioner No.2 has denied any knowledge of the use of car in commission of the offence and asserted that the car is owned by his wife, however, *prima facie*, the recovery of the vehicle at his instance with a different number plate (old number plate of the car which was changed on 14.01.2021) in the parking lot of a railway station casts strong suspicion against Petitioner No.2 that he used a false property mark and intended to cause disappearance of evidence of offence, which warrants framing of charges under Sections 201 and 482 of the IPC. The effect of non-joinder of independent witnesses to the seizure as well as absence of any eye witness in this respect can only be tested during the course of trial and the recovery cannot be negated at this juncture.

24. In view of the aforesaid discussion, this Court finds no reason to interfere with the impugned order.

25. The present petition is dismissed in the aforesaid terms.

26. It is clarified that the observations made in this order are only for the purpose of deciding the present petition and shall not influence the outcome of trial.

AMIT MAHAJAN, J

JANUARY 5, 2026
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