HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Revision Petition No. 1846/2025
CNR: RJHC020873312025 | URN: CRLR / 3125U / 2025

1 Virendra Swami S/o Shri Rameshwar Das, Resident Of House No.81, Shivram Colony, Jagatpura, Ps Jawahar Circle Jaipur, At Present R/o Qtr. No. Lg-1 Plot No.e-11, Vinayak Residency, Draunpuri, 200 Feet, Jaipur (Rajasthan)

2 Asha Devi W/o Virendra Swami, Resident Of House No.81, Shivram Colony, Jagatpura, Ps Jawahar Circle Jaipur, At Present R/o Qtr. No. Lg-1 Plot No.e-11, Vinayak Residency, Draunpuri, 200 Feet, Jaipur (Rajasthan)

----Petitioners

Versus

1 The State Of Rajasthan, Through The P.P.

2 Mayank Sharma S/o Shribhagwan, R/o 82, Shivram Colony, Jagatpura, P.s. Jawahar Circle, Jaipur

----Respondents

For Petitioner(s)	:	Mr. N.A. Naqvi, Mr. Syed Adeel Naqvi
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

17/11/2026

1. The present revision petition has been preferred under Section 438 read with Section 442 of the BNSS, against the order dated 11.08.2025, passed by the learned Additional Sessions Judge No.2, Jaipur District, Jaipur, in Sessions Case No.117/2019 (30/2017), whereby directions were given against the petitioners for framing the charges under Sections 341, 323, 504 and 308 of the IPC.

2. Learned counsel for the petitioners submits that the injuries sustained by the injured were neither caused with the intention of

causing death nor were such as were likely to cause death. It is further contended that the injuries sustained by the injured were opined to be simple in nature and caused by a blunt object, as the incident occurred in the heat of the moment, without any premeditation; therefore, considering the aforesaid facts, the impugned order directing framing of charges under Section 308 of the IPC may be set aside.

3. Learned Public Prosecutor has vehemently opposed the revision petition and contended that the injured received injuries to his head, having a dimension of 5.5 cm, placed horizontally on the left anterior parietal region of the scalp. It is alleged in the FIR that the said injuries were caused with an iron rod and therefore, considering the nature of the injury caused, the trial Court rightly framed charges against the petitioners under Section 308 of the IPC. Hence, the revision petition is devoid of merit and may be dismissed.

4. Heard and perused the material available on record.

5. It is a settled proposition of law that, at the stage of framing of charges, the Court is required to consider the material available on record and determine whether a prima facie case is made out against the accused. In the present case, the trial Court, upon consideration of the material placed on record, found that the injured had sustained injuries, including an injury on his head. The statements of the witnesses also indicate that an iron rod was used in the commission of the alleged offence to inflict injuries upon the injured, and merely because the injuries sustained by the injured were opined to be not dangerous to life and the same

by itself would not be sufficient to rule out the applicability of Section 308 of the IPC.

6. At the stage of framing of charges, the Court is required to consider the nature of the weapon used, the manner in which it was used, the part of the body targeted and the circumstances in which the injuries were inflicted and in the instant case, there are specific allegations against the petitioners that they, acting jointly, inflicted injuries upon the injured- Mayank, who sustained three injuries, including one on his head and these circumstances, when considered cumulatively, prima facie warrant consideration of the charge under Section 308 of the IPC.

7. At this juncture, it would be apposite to refer to the case of **Abhishek v. State of Rajasthan & Ors.**[1] wherein, the Hon'ble Supreme Court has held as under:-

> "**8.** The legal position concerning the ingredients and application of Section 307 of the IPC is well-settled. To attract Section 307 of the IPC, the Court must ascertain whether the act, irrespective of the ultimate outcome, was committed with such intention or knowledge and under such circumstances that, if death had been caused, the offender would have been guilty of murder. In **Balram Bama Patil** (supra), reiterated in **Saleem alias Chamaru** (supra) and **Jage Ram** (supra), this Court held that to justify a conviction under Section 307 of the IPC, **it is not essential that a fatal or life-threatening bodily injury must actually be sustained and the nature, gravity and site of the wound may assist in determining the intention of the accused, intention or knowledge can and must be deduced from the totality of circumstances, including the nature of the weapons deployed, the persistence of the assault, the prior animosity between the parties and the manner in which the attack was launched**...

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> **9**. Recently, in the case of **Surender Kumar v. State of Haryana**, **this Court reiterated that the determining factor under Section 307 of the IPC is the requisite intention or knowledge coupled with an overt act and that the mere fact that the injury was caused on a non-vital part of the body would not, by itself, exclude the applicability of Section 307 of the IPC**.
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> **10**. We are of the view that at the stage of framing charges under Sections 227 and 228 of the Code of Criminal Procedure, 1973 (for brevity "Cr.P.C."), the Court is not required to hold a mini-trial or weigh the evidentiary material as if adjudicating guilt after a full-fledged trial and the Court is only required to examine whether the investigating material, statements of witnesses and records disclose a prima facie case and raise a suspicion against the accused."
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> (emphasis supplied)

8. In view of the facts and circumstances of the present case and the legal principles enunciated by the Hon'ble Supreme Court in the aforesaid judgment, this Court does not find any illegality, infirmity or perversity in the impugned order warranting interference by this Court.

9. Accordingly, the instant revision petition, being devoid of any merit, is hereby dismissed.

10. However, it is made clear that the observations made hereinabove are confined solely to the adjudication of the present petition and shall not prejudice the merits of the case during the course of trial.

(PRAVEER BHATNAGAR),J

Crt_14/D-A/19/KESHAV GHIYA