2026:AHC:226939

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 3639 of 2025

Amit Nagar Alias Aunjay And 3 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Dheeraj Singh (Bohra)
Counsel for Opposite Party(s)	:	Ashutosh Singh, G.A.

Court No. - 92

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Shri Neeraj Singh Bohra, learned counsel for the revisionists, Shri D.P.S. Chauhan, the learned A.G.A.-I, and Shri Ashutosh Singh, the learned counsel for the opposite party no. 2 / first informant.

2. The learned counsel for the revisionists has filed a rejoinder affidavit, which is taken on record.

3. By means of the instant revision, the revisionists have challenged the validity of an order dated 21.06.2025, passed by the learned Sessions Judge, Hapur in Session Trial No. 802 of 2025, State vs. Amit and others, under Sections 103(1), 115(2), 117(2), 74 BNS, Police Station Babugarh, District Hapur, whereby an application filed by the revisionists seeking their discharge has been rejected.

4. The aforesaid case was instituted on the basis of an FIR lodged on 09.11.2024 against the revisionists, stating that while the complainant's father was going to the fields, all the accused persons assaulted him with sticks and hockeys. Upon coming to know about the incident from some neighbors, the complainant reached her field and found her father lying unconscious. He had suffered several injuries and two of his tooth had got broken. The informant started preparing a video, whereupon the accused persons started misbehaving with her, snatched away her phone, tried to pull her inside their vehicle, but thereafter they ran away while throwing away her phone on the spot.

5. The medico-legal examination report of the victim mentions as

many as six injuries. The victim died the day following the date of the incident. The post-mortem examination report mentions the following injuries:

(i). Abrasion 4cm X 0.3cm present at just below right eye,

(ii) Abrasion 0.5cm X 0.3cm present at just above right eyebrow,

(iii) Left central incisor teeth missing, blood clott present in tooth socket,

(iv) Abraded contusion 2cm X 1cm on the right lower lip,

(v) Contusion 6cm X 3cm on the upper abdomen, 2cm below from xiphisternum,

(vi) Abrasion 0.5cm X 0.5cm present on chin,

(vii) Abrasion 0.5cm X 0.5cm on the back of right hand index finger in the middel,

(viii) Multiple abrasion area 9cm X 7cm, on the left leg 3 in number largest is 1cm X 0.7cm & smallest is 0.5cm X 0.5cm, 9cm below from left knee joint."

However, the cause of death could not be ascertained.

6. After the trial court took cognizance of the offences and the revisionists were summoned to face the trial, they filed an application seeking discharge, stating that the investigation has not been conducted properly, the investigating officer has not evaluated the medical evidence properly and there was no material for framing charges against the revisionist. The revisionists stated that the deceased was suffering from heart ailment, he was undergoing treatment for the same, and he died naturally and not because of the injuries caused during the incident. The revisionists denied having misbehaved or molested the informant, who is related to them as their cousin.

7. The learned counsel for the revisionists submitted that the revisionists have been charged with the offence under Section 103(1) BNS, which is not made out.

8. The facts of the case clearly make out commission of cognizable offences by the revisionists and a case for their trial. In case any

particular Section is not made out, this plea can be raised by the revisionists before the trial court at an appropriate stage by filing an application under Section 239 Bharatiya Nagarik Suraksha Sanhita and this liberty is available to the revisionists.

9. The learned counsel for the revisionists lastly submitted that by the impugned order, the learned trial court has rejected the application seeking discharge of the revisionists and has simultaneously proceeded to frame charges against them. He has submitted that this is not permissible in law, as after rejection of the application seeking discharge, the trial court ought to have provided an opportunity of hearing to the revisionists on the question of framing charges. In support of this contention, he has placed reliance on a judgment rendered by a coordinate Bench of this Court in ***Raj Kumar @ Raju and 4 others vs. State of U.P. and 3 others, Criminal Revision No. 2419 of 2023***, decided on 22.12.2023 (2023 AHC 243037).

10. In response to this submission, Shri Ashutosh Singh, the learned counsel for opposite party no. 2 has placed reliance upon a judgment of the Hon'ble Supreme Court in the case of ***Dinesh Tiwari vs. State of U.P. and another, Criminal Appeal No. 1365 of 2014***, decided on 07.07.2014, wherein the Honorable Supreme Court has held that "from Section 228, it is clear that no separate hearing is required to be given for framing of the charge if the accused is not discharged upon consideration of the record of the case and documents and after hearing the submissions under Section 227."

11. Therefore, as the revisionists had been heard on the application under Section 227 Cr.P.C. and the trial court was satisfied that no case for their discharge was made out, the trial court was not required to provide any separate opportunity of hearing to the revisionists before proceeding to frame charges.

12. The trial court rejected the discharge application by the impugned order dated 21.06.2025. The trial court referred to the judgments in the cases of ***State of Delhi vs. Gyan Devi and others, 2001 (42) ACC 39, State of Orissa Vs. Devendra Nath Pathi: (2005) 51 ACC 209, Rajvir Singh Vs. State of U.P. AIR 2006 SC 1963, State of Maharashtra Vs. Salman Salim Khan: 2004 CRLJ SC, Onkar Nath Mishra Vs. State: (2008) 2 SCC 561*** and some other judgments and held that no meticulous examination of the prosecution material is required to be done at the stage of discharge of the accused persons

and the trial court is only required to examine whether a case for trial of the accused persons is made out or not.

13. The trial court held that in the statements recorded under Section 180 and 183 BNSS, the complainant herself has stated that her father was a heart patient, the accused persons pushed him down on the ground, the revisionist no. 4 Ashok Nagar sat on his chest and assaulted on his chest with his fists and also assaulted him with bricks. All the other revisionists assaulted the complainant's father with sticks. An independent witness Ompal has also supported the version of the complainant.

14. The investigating officer has recovered three sticks used in the incident on the pointing out of accused persons Arvind Nagar and Amit Nagar alias Sanjay (revisionists no. 1 and 2). As per the post-mortem examination report, the deceased had suffered eight anti-mortem injuries and blood was present inside his mouth. The revisionist no. 4 Ashok Nagar is the elder brother of the deceased and he would very well have known that the deceased was suffering from a heart disease. Yet, the revisionist no. 4 sat on the chest of the deceased and hit him on his chest with fists. Two tooth of the deceased had got broken, blood was present in his mouth and there was a bluish contusion above his abdomen.

15. The trial court found that the aforesaid facts make out a case for trial of the revisionists and rejected the application seeking discharge.

16. The impugned order passed by the trial court is a well-reasoned order and I am of the view that the trial court has not committed any error or illegality in recording the view that a case for trial of the accused persons is made out.

17. In view of the foregoing discussion, I am of the considered view that the impugned order does not suffer from any error or illegality warranting interference by this Court in exercise of its revisional jurisdiction.

18. The revision lacks merit and the same is ***dismissed***.

November 2, 2026
Ram.

(Subhash Vidyarthi,J.)

Digitally signed by :-
RAM SINGH
High Court of Judicature at Allahabad