



2025:DHC:9640



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 03.11.2025

+ **CRL.REV.P. 250/2025 & CRL.M.A. 19964/2025**

OM PRAKASHPetitioner

versus

STATE OF NCT OF DELHIRespondent

Advocates who appeared in this case:

For the Petitioner : Mr. Imran Ali & Ms. Misha, Advs.

For the Respondent : Mr. Raj Kumar, APP for the State
SI Yashveer Sharma, PS- Govindpuri

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed essentially challenging the order on charge dated 29.04.2025 (hereafter '**impugned order on charge**'), passed by the learned Additional Sessions Judge, South East District, Saket Courts, New Delhi in the case arising out of FIR No. 197/2018,



registered at Police Station Govind Puri, whereby it was found that a *prima facie* case for offences under Sections 304A/201/34 of the Indian Penal Code, 1860 ('**IPC**') is made out against the petitioner. The petitioner has also challenged the consequent order of the same date whereby charges were framed.

2. The brief facts of the present case are as follows:

2.1. The present case pertains to the death of a patient at the de-addiction centre– Jeevan Raksha Foundation, which was owned by the petitioner. On 12.06.2018, on receipt of a PCR call, police officers reached the de-addiction centre and found a male dead body lying on the ground. The dead person was identified as one Amit Bidhuri and the FIR was registered on the statement of the eye-witness/ complainant Hemant Kumar, who was also admitted at the de-addiction centre for his alcohol addiction. Allegedly, on 11.06.2018 at about 11 PM, four employees of the centre brought the victim to the centre. It is alleged that the victim was completely drunk and he had ran away from the centre on a previous occasion as well. After about half an hour, the caretaker of the centre- accused Sumit came with two of his companions. It is alleged that the accused Sumit appeared to be drunk and he also sat there and drank alcohol. Meanwhile, the victim, who was lying on the floor, passed stool and urine. One being infuriated by the same, the accused Sumit stated that the victim had troubled them earlier as well and started beating the victim with a bamboo stick kept there. Allegedly, the accused Sumit asked other



patients to beat the victim as well, however, none agreed. It is alleged that the accused Sumit cut the victim's hair on his head and eyebrows using a hair trimmer as well. At around 5AM/6AM, the complainant noticed that the victim was not breathing. When the complainant informed the accused Sumit, he threatened all the people present there against telling anyone and took the CCTV recording machine and ran away. When the petitioner reached the spot, the complainant informed him about the incident and call was made to the police.

2.2. In his disclosure statement, the accused Sumit disclosed the complicity of his friends Sukhwinder and Manoj, and stated that they had all ran away from the spot. He stated that the accused Sukhwinder had taken the CCTV recording/ DVR machine from the place of incident. At the instance of accused Sukhwinder, the CCTV footage/ hard-disk was recovered from his house, however, the DVR machine had been apparently thrown away and the same could not be recovered.

2.3. The charge sheet in the present case was filed in the year 2018 against accused persons Sumit and Sukhwinder, and the petitioner was placed under column 12 as no concrete evidence was found against him. A protest petition was filed by the father of the victim and further investigation was directed to be carried out in April, 2023. Pursuant to the same, in the year 2024, supplementary charge sheet was filed wherein the petitioner was charge sheeted for the offences under Sections 201/302/120B/34 of the Indian Penal Code, 1860 ('**IPC**').



2.4. By the impugned order on charge, the learned Trial Court observed that from the material on record and contents of charge sheet, offences under Sections 304A/201/34 of the IPC are made out against the petitioner. It was noted that the arguments taken by the accused persons are not tenable and cannot be considered at the stage of framing of charge.

3. The learned counsel for the petitioner submitted that the petitioner has been erroneously charged in the present case without appreciating that there is no direct or circumstantial evidence linking the Revisionist to the offence.

4. He submitted that the supplementary chargesheet against the petitioner was filed almost six years after the incident and the only material cited for his implication therein is a supplementary disclosure statement of a co-accused which was recorded on 24.11.2023. He submitted that co-accused has allegedly disclosed that the petitioner handed over the DVR to another accused and this disclosure is not corroborated by any independent source and is legally inadmissible being a confession before police. He further submitted that the supplementary disclosure statement was recorded after more than five years of the alleged offence and the substantial delay clearly indicates afterthoughts and improvements, making the said disclosure statement highly unreliable and untrustworthy.

5. He emphasised that in the absence of any independent eye-witnesses, Call Detail Records (CDR), CCTV footage or other material



evidence linking the petitioner to the offence, no *prima facie* case is made out against the petitioner.

6. He submitted that the petitioner himself reported the crime to the police and also contacted the parents of the victim to inform them about the incident. He submitted that in such circumstances, it is unreasonable to charge the petitioner as an accused.

7. He submitted that a number of the major witnesses in the present case are not alive and there are no reliable prosecution witnesses to prove the allegations levelled by the prosecution.

8. He submitted that no offence under Section 304 A of the IPC is made out against the petitioner. He submitted that the petitioner has been implicated in this regard solely on account of him being the owner of the establishment where the incident occurred, however, no overt negligence or rashness is attributed to the petitioner.

9. *Per contra*, the learned Additional Public Prosecutor for the State opposed the contentions of the petitioner and contested that the impugned order is well-reasoned and the same does not warrant any interference. He submitted that the petitioner gave evasive replies during interrogation and failed to provide documents pertaining to the organisation.

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:

“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.

(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:

“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 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 petitioner that the learned Trial Court has erroneously framed charges against him merely on account of disclosure of co-accused Sumit and due to him being the owner of the establishment where the alleged incident took place. It is pertinent to note that after being placed in column 12 of the charge sheet, the



petitioner was implicated as an accused only in the supplementary charge sheet six years after the incident.

16. Before delving into the merits of the case, it is imperative to observe that the impugned order is abysmally bereft of any cogent reasoning as to how a *prima facie* case is made out against the petitioner apart from his ownership of the premises and the main accused being a caretaker under his employment. While the learned Trial Court is not required to undertake a meticulous mini trial, it is required to sift through the material on record. It is simply observed by the learned Trial Court that the allegations are direct and specific and the grounds agitated by the accused are not tenable and cannot be considered at the stage of prosecution. It is further noted that the prosecution story cannot be disbelieved at this stage.

17. Charges have been framed against the petitioner for the offences under Sections 304A/201/34 of the IPC. It appears that the counsel appearing for the family of the victim tendered extensive arguments in relation to the complicity of the petitioner in the conspiracy to murder him. It was argued that even if the Court is not inclined to frame charges for the offence under Section 302 of the IPC, the petitioner ought to be charged as he failed to take sufficient care and was negligent in not ensuring that the admitted patients are not beaten. The short question to be considered is whether the charge under Section 304A of the IPC can be sustained merely on account of the petitioner being the owner of the premises.



18. Section 304A of the IPC encapsulates the offence for causing death by negligence. The same reads as under:

“304-A. Causing death by negligence.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

19. Although what constitutes a negligent act has not been defined in the Code, it essentially pertains to breach of a duty caused by omission to do an act which a reasonable man in that position would do, or doing something which a prudent man would not do. It is settled law that to fasten criminal liability, apart from the presence of *mens rea*, the degree of negligence has to be more severe than what is sufficient to constitute negligence under the mandate of civil law.

20. The Hon’ble Apex Court in the case of ***Jacob Mathew v. State of Punjab : (2005) 6 SCC 1*** had discussed the law in relation to the offence under Section 304A of the IPC and opined that to constitute such an offence, gross negligence and an element of *mens rea* must be shown to exist. The relevant portion of the judgment is as under:

*“38. The question of degree has always been considered as relevant to a distinction between negligence in civil law and negligence in criminal law. In **Kurban Hussein Mohammedali Rangwalla v. State of Maharashtra [(1965) 2 SCR 622 : (1965) 2 Cri LJ 550]** while dealing with Section 304-A IPC, the following statement of law by Sir Lawrence Jenkins in *Emperor v. Omkar Rampratap [(1902) 4 Bom LR 679]* was cited with approval: (SCR p. 626 D-E)*

“To impose criminal liability under Section 304-A, Penal Code, 1860, it is necessary that the death should have



*been the **direct result of a rash and negligent act** of the accused, and that act must be the proximate and efficient cause without the intervention of another's negligence. It must be the causa causans; it is not enough that it may have been the causa sine qua non."*

Conclusions summed up

48. We sum up our conclusions as under:

(1) Negligence is the breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. The definition of negligence as given in Law of Torts, Ratanlal & Dhirajlal (edited by Justice G.P. Singh), referred to hereinabove, holds good. Negligence becomes actionable on account of injury resulting from the act or omission amounting to negligence attributable to the person sued. The essential components of negligence are three: "duty", "breach" and "resulting damage".

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(5) The jurisprudential concept of negligence differs in civil and criminal law. What may be negligence in civil law may not necessarily be negligence in criminal law. For negligence to amount to an offence, the element of mens rea must be shown to exist. For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution.

(6) The word "gross" has not been used in Section 304-A IPC, yet it is settled that in criminal law negligence or recklessness, to be so held, must be of such a high degree as to be "gross". The expression "rash or negligent act" as occurring in Section 304-A IPC has to be read as qualified by the word "grossly". "

(emphasis supplied)

21. In the case of **Malay Kumar Ganguly v. Sukumar Mukherjee** : (2009) 9 SCC 221, the Hon'ble Apex Court had discussed the



essential ingredients of the offence under Section 304A of the IPC. The relevant portion of the judgment is as under:

“176. The essential ingredients of Section 304-A are as under:

(i) Death of a person.

(ii) Death was caused by the accused during any rash or negligent act.

(iii) Act does not amount to culpable homicide.

And to prove negligence under criminal law, the prosecution must prove:

(i) The existence of a duty.

(ii) A breach of the duty causing death.

*(iii) The breach of the duty must be characterised as **gross negligence**.*

(See R. v. Prentice [1994 QB 302 : (1993) 3 WLR 927 : (1993) 4 All ER 935] .)

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*178. Criminal negligence is the failure to exercise duty with reasonable and proper care and employing precautions guarding against injury to the public generally or to any individual in particular. It is, however, well settled that so far as the negligence alleged to have been caused by medical practitioner is concerned, to constitute negligence, simple lack of care or an error of judgment is not sufficient. **Negligence must be of a gross or a very high degree to amount to criminal negligence.**”*

(emphasis supplied)

22. As per the case canvassed by the prosecution in the chargesheet as well as supplementary chargesheet, the death of the victim happened when the accused Sumit, who was drunk, was infuriated by the victim defecating and urinating while lying on the ground. The learned Trial Court has also proceeded on the said basis as none of the accused persons have been charged for the offence of conspiracy. Although it cannot be denied that as the owner of the establishment, the petitioner owed some duty of care towards the patients at the centre, however, in the opinion of this Court, the same cannot render



him liable for the offence under Section 304A of the IPC in the present circumstances merely on account of ownership of premises. Even the presence of the petitioner at the premises is under dispute. It is noted in the supplementary charge sheet that there are certain discrepancies in the statements of the witnesses as to whether the petitioner was present at the rehabilitation centre when the victim was brought there and if he had himself gone to bring the victim to the centre. Due to the delay in investigation, no CDR of the petitioner could be obtained in this regard. Even so, in the supplementary chargesheet, it has been categorically mentioned that there is no mention of the petitioner being part of any fight with the victim.

23. It is mentioned in the supplementary charge sheet that no records of the centre could be found due to the same having been closed. Given the nature of allegations and the evidence, no grave suspicion is raised that the death of the victim was caused on account of any “gross negligence” on part of the petitioner. The facts of the case fall abysmally short of establishing a *prima facie* case of any gross negligence.

24. *Albeit*, the accused Sumit was employed at the premises and he was drunk as per allegations, however, there is no material to evidence that the petitioner was *aware* of the same. Lack of care alone is insufficient to render the petitioner culpable for the offence under Section 304A of the IPC as *mens rea* is a crucial element to invite such culpability, and even otherwise, the incident appears to have been



motivated by the sudden animosity of the co-accused towards the victim rather than caused by any negligence on part of the petitioner.

25. It is relevant to note that charge for the offence under Section 201 of the IPC has been framed against the petitioner merely on account of the disclosure statement of co-accused Sumit, which is not admissible as evidence. Apart from the disclosure of the co-accused, there is no material to link the petitioner to the destruction of evidence. No consideration has been accorded by the learned Trial Court to either the admissibility of the disclosure statement or the dearth of any supporting substance. It is also pertinent to note that in his initial disclosure statement, the said accused had made no mention of the petitioner having given the DVR of the CCTV footage to him for destroying the same and there is a clear improvement in the statement. Even otherwise, as pointed out, the supplementary disclosure statement was recorded five years after the incident and the same is not supported by any corroborative material. The DVR was not found with the petitioner and although the same was found to be missing, the same does not indicate the role of the petitioner in its destruction. At best, the circumstances merely cast suspicion against the petitioner in this regard, and the same is insufficient for framing charges. It is trite law that if two views are possible and one of them gives rise to only suspicion instead of grave suspicion, it is open to the Court to discharge the accused.



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26. Considering the totality of circumstances, in the opinion of this Court, grave suspicion is not raised against the petitioner and in dearth of any cogent material, the petitioner cannot be made to suffer trial in the present case.

27. In view of the above, the impugned orders are set aside and the petitioner is discharged of the charges framed against him in the case arising out of FIR No. 197/2018, registered at Police Station Govind Puri.

28. The present petition is allowed in the aforesaid terms.

29. It is made clear that the observations made in the present order are for the purpose of deciding the present petition and the same shall have no bearing on the case in relation to the other accused persons.

AMIT MAHAJAN, J

NOVEMBER 03, 2025

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