



2025:DHC:11167



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: December 9, 2025

+ **CRL.REV.P. 518/2025, CRL.M.A. 36709/2025 & CRL.M.A. 36710/2025**

KAILASH SHANKAR ALIAS RAHULPetitioner

Through: Mr. Yugansh Mittal,
DHCLSC, Mr. Keshav
Poonia & Mr. G. B. Singh,
Advs.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State.
SI Mahavir, PS DBG
Road, WSI Deepali. Main
IO.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The petitioner challenges the order dated 29.07.2025 ('the **impugned order**'), passed by the learned Trial Court whereby the charges were framed against the petitioner under Sections 328/376 of the Indian Penal Code, 1860 ('**IPC**').

2. The learned Trial Court noting that there is no legal requirement for the Trial Court to write a reasoned or lengthy order for framing the charges, passed the impugned order noting that the parties have been heard and after going through the case



file, there is sufficient material on record to frame charges against the accused for the offences punishable under Sections 328/376 of the IPC.

3. Considering the fact that the petitioner has assailed the impugned order by which charges have been framed for the offences punishable under Sections 328/376 of the IPC, it will be apposite to succinctly discuss the statutory law with respect to framing of charge and discharge as provided under Section 227 and 228 of the CrPC. The same is set out below:

“227. Discharge If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of Charge

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, 1 [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

4. The Hon’ble Apex Court in the case of ***State of Gujarat v. Dilipsinh Kishorsinh Rao*** : 2023 SCC OnLine SC 1294, 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.”

5. Perusal of the impugned order framing charge indicates that the allegations were put to the petitioner in the formal order framing charge. However, neither the reasons for framing the charges nor any argument has been noted in the impugned order



and further not even the allegations against the petitioner have been mentioned.

6. The record also indicates that the prosecutrix in her statement under Section 164 of the Code of Criminal Procedure, 1973 stated that no offence has been committed by the petitioner.

7. Thus, even though the learned Trial Court is not required to record a reasoned or lengthy order for framing of charge, I am not in agreement with the reasoning given by the learned Trial Court.

8. Undisputedly, the learned Trial Courts are not required to pass a lengthy order for framing the charges. However, it is incumbent on the Court to at least state the allegations and mention the investigation carried out by the State. The order shall indicate application of judicial mind.

9. A *prima facie* reason for framing the charge needs to be specified in the order. The Hon'ble Apex Court in the case of ***Ghulam Hassan Beigh v. Mohd. Maqbool Magrey : (2022) 12 SCC 657*** has reiterated that it is the duty of the trial court to apply its mind at the time of framing of charge and it should not act as a mere post office. The endorsement of the chargesheet presented by the police as it is without applying its mind and without recording brief reasons in support of its opinion is not countenanced by law.

10. The learned Trial Court in the impugned order has merely stated that after going through the case file it is of the view that there is sufficient material on record to frame charge against the accused for offences punishable under Sections 328/376 of the



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IPC.

11. The learned Trial Courts ought to provide reasons albeit briefly while passing final orders so that in case such orders are challenged, the appellate courts can determine what weighed on the mind of the Court while passing such an order.

12. In view of the above, the present petition is allowed and the impugned order is set aside. The learned Trial Court is directed to pass a fresh order.

AMIT MAHAJAN, J

DECEMBER 9, 2025

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