



2025:DHC:8410



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 22.09.2025

+ **CRL.REV.P. 431/2023**

DINESH KUMAR

.....Petitioner

versus

STATE & ORS.

.....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. S.S. Tripathi & Mr. G.S. Bagga, Advs.
with Petitioner in person.

For the Respondents : Mr. Raj Kumar, APP for the State for the
State SI Pardeep, PS- Mehrauli.
Mr. Chandan Gupta & Mr. Rohit Kumar,
Advs. for R2 to R4.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed challenging the orders dated 24.01.2023 and 13.02.2023 (hereafter '**impugned orders**'), passed by the learned Trial Court in SC No. 6997/2016 arising out of FIR No. 834/2013 ('**FIR**'), registered at Police Station Mehrauli.

2. By the impugned order on charge dated 24.01.2023, the learned Trial Court observed that prima facie, there is sufficient material on



record for framing charges against the accused respondents for the offences punishable (i) under Section 147 of the Indian Penal Code, 1860 ('IPC'), (ii) under Section 323 read with Section 149 of the IPC in alternative under Sections 323/34 of the IPC, (iii) Section 506 read with Section 149 of the IPC in alternative under Sections 506/34 of the IPC, (iv) Section 3(1)(x) of the SC & ST Act, and (v) Section 3(2)(va) of the SC & ST Act.

3. By the impugned order dated 13.02.2023, formal charges were framed against the accused respondents.

4. The petitioner is essentially aggrieved by the fact that charges have not been framed against the accused persons for the offences under Sections 307/452/397/354 of the IPC read with Section 3(1)(s) of the SC & ST Act.

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

5.1. On 29.10.2013, FIR was registered at Police Station Mehrauli on the direction of the learned Magistrate in a complaint filed by the petitioner under Section 156(3) of the Code of Criminal Procedure, 1973. It is alleged that on 05.10.2013, at around 7 PM, when the petitioner was going to drop his wife home after her treatment, Respondent No.2 accused along with another person arrived in a motorcycle and kicked his car. The said persons asked the petitioner to remove his car from the spot and abused the petitioner. After threatening the petitioner and his wife, the accused persons fled from the spot. On 06.10.2013, when the petitioner was in his office with his brothers– Nirmal and Harish, the Respondent No. 5 accused came



there and called the petitioner on the pretext that his father wished to discuss the issue of the incident which took place on the previous day. Not suspecting anything amiss, the petitioner went outside and he was surrounded by 10 to 12 persons, including the accused respondents, who started jostling the petitioner and made casteist slurs against him. It is alleged that the assailants also made remarks in reference to a case that had been registered at the instance of the petitioner against Respondent No.2. Hearing the quarrel, the aunt and brothers of the petitioner made a call at 100 number and tried to save the petitioner, due to which, they were also allegedly beaten along with the petitioner with *dandas* and iron rods. It is alleged that Respondent Nos. 2 and 5 snatched gold chains from the neck of the petitioner as well as his aunt. It is alleged that the mobile phone of the petitioner's brother Nirmal was also snatched and the petitioner was attacked suddenly on his head.

5.2. Chargesheet was filed against the accused persons for the offences under Sections 147/149/323 of the IPC and Section 3 of the SC & ST Act.

5.3. In the impugned order on charge dated 24.01.2023, it was observed that there is nothing on record to frame charge for the offences punishable under Sections 307/354/392/397 of the IPC. Consequently, charges were not framed for the aforesaid offences by way of order dated 13.02.2023.

5.4. Aggrieved by the same, the petitioner has filed the present petition.



6. The learned counsel for the petitioner submitted that the learned Trial Court failed to take cognizance of the statements of the witnesses under Section 161 of the CrPC and investigation reports filed with the chargesheet while framing charges. He submitted that charges have been framed for lenient offences without reference to the stringent provisions attracted in the facts of the case.

7. He submitted that no allegation in relation to any property dispute was made by the petitioner and the learned Trial Court has erroneously made a presumption in this respect.

8. He submitted that the learned Trial Court also failed to appreciate the MLC of the petitioner's aunt which clearly reflects the commission of offence under Section 354 of the IPC.

9. He submitted that the investigation reports clearly show that the witnesses have made reference to the gold chains and the mobile phone being snatched.

10. *Per contra*, the learned counsel for the accused persons submitted that the petitioner is a habitual litigator and a cross-FIR in relation to the incident had also been registered at the behest of Respondent No.2.

11. He submitted that the investigating agency has aptly found that the concerned offences are not made out in the facts of the present case. He stressed that the alleged injuries suffered by the victims were in the nature of simple blunt and offence under Section 354 of the IPC cannot be said to be made out merely because a woman was also involved in the altercation.



ANALYSIS

12. 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.

13. Since the petitioner is essentially aggrieved by non-framing of charges for some offences, 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.”

14. 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)

15. 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 Sections 227 and 228 of the CrPC 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)



16. 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)



17. 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.

18. It is the case of the petitioner that the learned Trial Court has erroneously framed charges for mild offences and failed to appreciate that the allegations warrant that the accused respondent be put to trial for more stringent offences which are provided under Sections 307/452/397/354 of the IPC read with Section 3(1)(s) of the SC & ST Act.

19. The learned Trial Court has noted in the impugned order dated 24.01.2023 that at the time of framing of charges, a *prima facie* case is to be seen and found that there is nothing on record to frame charges for the offences under Sections 307/354/392/397 of the IPC. On the other hand, the learned counsel for the accused respondents has contested the present petition and asserted that the altercation gave rise to cross-FIRs and there is no infirmity in the impugned orders.

20. It is mentioned in the chargesheet that the petitioner had provided the names and particulars of a number of individuals who had witnessed the altercation, however, none of the eyewitnesses mentioned about snatching of gold chain or mobile phone. It is further



mentioned that the allegations of house trespass, attempt to murder or dacoity with intention to cause grievous hurt or death were not substantiated, due to which, the offences under Sections 307/452/397 of the IPC were dropped. It is important to note that the chargesheet was filed way back in the year 2014 and the charges were framed after 9 years in the year 2023, despite which, the petitioner did not file any protest petition in this regard for non-addition of appropriate sections in the intervening period.

21. It is argued that the offence under Section 307 of the IPC is made out in the present case as the petitioner has suffered an injury on his head. Before charging the accused persons for the said offence, it is incumbent on the Court to make a *prima facie* assessment as to whether the essentials of the offence are made out. To constitute an offence under Section 307 of the IPC, irrespective of the result of the act, it is imperative that the accused does the act with such intention or knowledge, and under such circumstances that, if death was caused by the act, the accused would be guilty of murder. In the case of *Surinder Singh v. State (Union territory of Chandigarh) : 2021 INSC 790*, the Hon'ble Apex Court had observed as under:

*“20. It is by now a lucid dictum that for the purpose of constituting an offence under Section 307 IPC, there are **two ingredients** that a Court must consider, **first**, whether there was any intention or knowledge on the part of accused to cause death of the victim, and, **second**, such intent or knowledge was followed by some overt actus rea in execution thereof, irrespective of the consequential result as to whether or not any injury is inflicted upon the victim. The Courts may deduce such intent from the conduct of the accused and surrounding circumstances of the offence, including the nature of weapon used or the nature of*



injury, if any. The manner in which occurrence took place may enlighten more than the prudential escape of a victim. It is thus not necessary that a victim shall have to suffer an injury dangerous to his life, for attracting Section 307 IPC.”

(emphasis supplied)

22. From the said decision, it is clear that it is not essential that the victim suffers from such an injury which is capable of causing death for invoking Section 307 of the IPC, however, it is equally well-settled that the nature of injury actually caused is of considerable assistance in discerning the intention of the accused along with the other attending circumstances, including nature of weapon used, part of body where the injury is inflicted and severity of blows given [Ref. ***State of Madhya Pradesh v. Saleem @ Chamaru & Anr.:* (2005) 5 SCC 554**].

23. In the present case, all victims suffered simple injuries and the result of all MLCs came as– ‘simple blunt’. Although the place of the petitioner’s injury on his head casts some doubt against the accused persons in this regard, the severity of the blow as well as the nature of injury inflicted motivates this Court to concur with the view taken by the learned Trial Court in regard to the said offence not being made out. Mere blow to the petitioner’s head is not sufficient to cast grave suspicion against the accused persons and to infer any intention or knowledge on their part to murder the petitioner, especially when despite the nature of weapon used as well as the number of assailants allegedly attacking the petitioner, the injury was not severe.

24. Insofar as the offences under Sections 397 and 452 of the IPC are concerned, it is argued that the learned Trial Court has erred in not



duly appreciating the investigation progress reports and statements of witnesses. It is important to note that no specific argument has been tendered to impress upon this Court as to why a charge should be framed against the accused persons for the aforesaid offence.

25. As mentioned in the FIR, it is alleged by the petitioner that the gold chains of the petitioner as well as his aunt were snatched and the mobile phone of the petitioner's brother Nirmal was also snatched. It is also alleged that the petitioner was asked to come out from his office by Respondent No.5 on the pretext of talking to his father about a previous dispute and thereafter hounded by the assailants. No allegations have been made that any of the accused persons forcibly entered into the office of the petitioner or unlawfully remained there subsequently. It is pertinent to note that no charges can be framed on bald allegations made by a complainant. At the stage of framing charges, the Court is not required to take the case of the complainant on a demurer or act as a mouthpiece of the prosecution. The Court is required to consider the broad possibilities of the case.

26. A bare perusal of the investigation reports and material on record indicates that while the independent witnesses have stated that they witnessed an altercation where the petitioner and his relatives were being beaten, however, nothing has been said by any of the witnesses that warrants framing of charges for house trespass, or robbery or dacoity with attempt to cause death or grievous hurt. None of the statements make any mention of trespass at all. During arguments, much emphasis was laid on the statement given by one



Faiyaz, who runs a barber shop near the place of incident. The said person stated that the chain of the 'advocate' was broken and a part of it was found subsequently. He has further stated that 'they', that is the injured persons, were stating that their phone had been *lost* in altercation. *Prima facie*, it appears that the material alleged to have been robbed was lost during the altercation. The statement of the said Faiyaz does not suggest that the chains or phone were snatched by the accused persons for robbing the same. At best, the same may cast some suspicion, however, it does not cast any grave suspicion so as to warrant framing of charges.

27. As far as the offence under Section 354 of the IPC is concerned, it is alleged that since the aunt of the petitioner was also hurt in the altercation, the said offence is made out against the accused persons. The allegations pertain to the petitioner's brothers and his aunt being beaten by iron rods and *dandas* when they intervened to save the petitioner from the accused respondents.

28. As held by the Hon'ble Apex Court in the case of ***Naresh Aneja v. State of U.P. : (2025) 2 SCC 604***, the ultimate test for ascertaining as to whether modesty has been outraged is to see if the action in question can be perceived as one which is capable of shocking the sense of *decency* of a woman. It was observed that to constitute the offence under Section 354 of the IPC, criminal force must be used against a woman and the application of force must be with intent to outrage her modesty. Thus, mere assault or use of criminal force against a woman is insufficient to attract the offence under Section



354 of the IPC and it is imperative that the act is done with the intention or knowledge that it will likely outrage the woman's modesty.

29. In the present case, the aunt of the petitioner appears to have sustained injuries in the altercation. At this stage, there is no material to suggest that the force was used with an intention to outrage her modesty. *Prima facie*, in the present case, the statutory threshold has not been met and no such material has come forth in the allegations or found in the investigation which justifies attributing intent of outraging modesty on any of the accused persons so as to warrant charges for the said offence.

30. The petitioner is also aggrieved by non-framing of charge for the offence under Section 3(1)(s) of the SC & ST Act, which criminalises abusing a member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view. It is relevant to note that after taking note of the material on record, the learned Trial Court has fairly taken note of the specific allegations in relation to hurling of casteist slurs and framed charges under Section 3(1)(x) of the SC & ST Act (as it existed prior to amendment). The said provision is in relation to intentional insults or intimidation of a person being a member of a Scheduled Caste or a Scheduled Tribe, with an intention to humiliate them within public view.

31. It is pertinent to note that the allegations pertain to the year 2013 and the aforesaid provision only came into force on 26.01.2016 after amendment of Section 3 of the SC & ST Act by way of



Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. As provided in Article 20(1) of the Constitution of India, a person can only be convicted for violation of a law in force *at the time* of the commission of the act charged as an offence. It is settled law that declaration of a criminal offence by the legislature is always prospective and the provisions cannot be applied retrospectively to acts done prior in time. There was no analogous provision to Section 3(1)(s) in the SC & ST Act prior to amendment and thus, no charges can be framed against the accused persons for the aforesaid offence.

32. In view of the aforesaid discussion, this Court finds no reason to interfere with the impugned orders or frame charges for the concerned offences at this juncture.

33. The present petition is accordingly dismissed.

34. It is made clear that the observations made in the present order are for the purpose of deciding the petitioner and shall not influence the outcome of the trial in any manner whatsoever.

AMIT MAHAJAN, J

SEPTEMBER 22, 2025

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