



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 401 of 2025

Reserved on: 02.03.2026

Date of Decision: 18.03.2026.

Farman & Anr. ...Petitioners

Versus

State of H.P. ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioner : Mr Deepak Kaushal, Sr.
Advocate, with Mr Aditya
Chouhan, Advocate.

For the respondent : Mr Lokender Kutlehria,
Additional Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the order dated 30.04.2025 passed by learned Additional Sessions Judge Paonta Sahib, District Sirmaur (learned Trial Court) vide which the petitioner (accused before learned Trial Court) were charged with the commission of offences punishable under Sections 302, 147, 148, 341 and 427 read with Sections 149 and 120-B of Indian Penal Code (IPC).

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.



2. Briefly stated, the facts giving rise to the present revision are that the police filed a charge sheet against the accused for the commission of offences punishable under Sections 302, 147, 148, 149, 341, 323, 326, 325, 427 and 120B of the Indian Penal Code (IPC). It was asserted that the police received an information on 24.10.2023 that one person was brought to the hospital after a quarrel. The police went to the hospital for verification of the information. Rakesh Kumar (injured) made a statement that he was going to his home on 24.10.2023 on his motorcycle bearing registration No. HP-17E-4072. He was carrying ₹3,98,000/- with him. 2-3 vehicles stopped near the Nanj factory at 9.00 PM. The accused, Mahender Singh, and 15-20 persons came out of the vehicles and started beating the informant. Accused Mahender Singh inflicted blows with a Gandasi on the informant's arms and legs. The other people also gave him beatings with sticks. His motorcycle was damaged. ₹3,98,000/- kept by the informant in his pocket was removed. The accused ran away from the spot after the incident. The police registered the FIR and investigated the matter. It was found during the investigation that the money was dropped during the incident and was picked up by Ajay Kumar (the informant's brother). The left leg of the informant was amputated



at PGI on 5.11.2023. The informant was admitted to the MM Institute of Medical Sciences and Research, Mulana, Haryana, and he died during the treatment. The postmortem examination of the informant was conducted, and as per the report of the Medical Officer, the cause of death was vascular degeneration of the kidney, consequent to the injury to the left leg. Accused Mahender Singh made a disclosure statement leading to the recovery of Gandasa, with which the injuries were inflicted. Saravjeet Singh got recovered a stick that was used for beatings. Present petitioner, Farman got recovered an iron pipe, which was used during the incident. The viscera was sent to FSL, and as per the result, no poison/ethyl alcohol or drug was detected in the viscera. Blood was not detected in the Gandasa and metallic pipe; however, blood was found in traces on the wooden stick, but it was insufficient for serological examination. The statements of witnesses were recorded as per their version and after the completion of the investigation, the challan was filed before the Court, and was committed to the learned Additional Sessions Judge, Paonta Sahib (learned Trial Court).

3. Learned Trial Court held that the evidence collected during the investigation established the nexus between the injury

sustained by Rakesh Kumar and his death. The plea raised by the accused that the death was not connected to the injury was not sustainable. Hence, the learned Trial Court ordered the framing of charges.

4. Being aggrieved by the order passed by the learned Trial Court, the accused have filed the present petition asserting that the learned Trial Court erred in holding that there was a nexus between the death and the injuries. It was brought to the notice of the learned Trial Court that two pathology reports received from Dr Y.S. Parmar Government Medical College and Hospital (YSPGMCH), Nahan, concerning a part of the kidney of Rakesh Kumar indicated features of vascular degeneration. The death summary of Rakesh Kumar, instituted by MM Institute of Medical Sciences and Research Mulana, mentioned a chronic alcoholic who came with the complaint of fever with decreased urine output. It mentioned the cause of death as Dengue Shock Syndrome multi-organ dysfunction syndrome. The Medical Officer attending upon Rakesh Kumar opined that the nature of the injury was dangerous to life. There was no nexus between the injury sustained by Rakesh Kumar and his death. The accused should not have been charged with the commission of an offence

punishable under Section 302 of the IPC. Therefore, it was prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

5. The petition is opposed by filing a reply taking preliminary submission regarding the lack of maintainability. The contents of the petition were denied on merits. However, it was not disputed that the matter was reported to the police by the informant, an FIR was registered, and investigations were conducted. It was asserted that a *prima facie* material existed against the accused, and the learned Trial Court was justified in framing charges against the accused. Therefore, it was prayed that the present petition be dismissed.

6. A rejoinder denying the contents of the reply and affirming those of the petition was filed.

7. I have heard Mr. Deepak Kaushal, learned Sr. Advocate assisted by Mr Deepak Chouhan, learned counsel for the petitioner/accused, and Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

8. Mr Deepak Kaushal, Learned Senior Counsel for the petitioner, submitted that this Court had already held in *Ajay*



Kumar versus State of H.P. and others (2025) HHC 17750 that there was no nexus between the death and injury sustained by Rakesh Kumar. The report of the MM Institute of Medical Sciences and Research clearly suggested that the death was caused by Dengue Shock Syndrome, which could not be attributed to the injuries. The doctor was the best person to depose about the cause of the injuries. Therefore, he prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

9. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that a grave suspicion is sufficient to frame charges. The final report issued by the Medical Officer categorically stated that the deceased died as a result of vascular degeneration of the kidney, consequent to the injury to the left leg, and the learned Trial Court was justified in framing charges. There is no infirmity in the order passed by the learned Trial Court; hence, he prayed that the present revision be dismissed.

10. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.



11. It was laid down by the Hon'ble Supreme Court in *Vishnu Kumar Shukla v. State of U.P.*, (2023) 15 SCC 502: 2023 SCC OnLine SC 1582 that the Court framing the charges has to see a *prima facie* case. It is impermissible to examine the material threadbare to determine whether the accused is likely to be convicted or not. It was observed: -

“12. The primary consideration at the stage of framing of charge is the test of the 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 the *prima-facie* case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion on the existence of factual ingredients constituting the offence alleged, and it is not expected to go deep into the probative value of the material on record and to check whether the material on record would certainly lead to a conviction at the conclusion of the trial.

12. It was held in *Ram Prakash Chadha v. State of U.P.*, (2024) 10 SCC 651: (2025) 1 SCC (Cri) 253: 2024 SCC OnLine SC 1709 that the Court can sift and weigh the evidence to determine if a *prima facie* case exists against the accused. It was observed at page 661:

“24. In the light of the decisions referred supra, it is thus obvious that it will be within the jurisdiction of the Court



concerned to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused concerned has been made out. We are of the considered view that a caution has to be sounded for the reason that the chances of going beyond the permissible jurisdiction under Section 227CrPC, and entering into the scope of power under Section 232CrPC, cannot be ruled out, as such instances are aplenty. In this context, it is relevant to refer to a decision of this Court in *Om Parkash Sharma v. CBI, (2000) 5 SCC 679: 2000 SCC (Cri) 1014*. Taking note of the language of Section 227CrPC, is in negative terminology and that the language in Section 232CrPC, is in the positive terminology and considering this distinction between the two, this Court held that it would not be open to the Court while considering an application under Section 227CrPC, to weigh the pros and cons of the evidence alleged improbability and then proceed to discharge the accused holding that the statements existing in the case therein are unreliable. It is held that doing so would be practically acting under Section 232 CrPC, even though the said stage has not been reached. In short, though it is permissible to sift and weigh the materials for the limited purpose of finding out whether or not a prima facie case is made out against the accused, on appreciation of the admissibility and the evidentiary value such materials brought on record by the prosecution is impermissible as it would amount to denial of opportunity to the prosecution to prove them appropriately at the appropriate stage besides amounting to exercise of the power coupled with obligation under Section 232 CrPC, available only after taking the evidence for the prosecution and examining the accused.

13. It was held in *Yuvraj Laxmilal Kanther v. State of Maharashtra, 2025 SCC OnLine SC 520*, that the Court is not to undertake a threadbare analysis of the material but to see if there is sufficient material to frame charges. It was observed:



“16. Section 227 CrPC deals with discharge. What Section 227 CrPC contemplates is that 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 are no sufficient grounds for proceeding against the accused, he shall discharge the accused and record his reasons for doing so. At the stage of consideration of discharge, the court is not required to undertake a threadbare analysis of the materials gathered by the prosecution. All that is required to be seen at this stage is that there are sufficient grounds to proceed against the accused. In other words, the materials should be sufficient to enable the court to initiate a criminal trial against the accused. It may be so that at the end of the trial, the accused may still be acquitted. At the stage of discharge, the court is only required to consider whether there are sufficient materials that can justify the launch of a criminal trial against the accused. By its very nature, a discharge is at a higher pedestal than an acquittal. Acquittal is at the end of the trial process, may be for a technicality or on the benefit of doubt, or the prosecution could not prove the charge against the accused; but when an accused is discharged, it means that there are no materials to justify the launch of a criminal trial against the accused. Once he is discharged, he is no longer an accused.”

14. The present petition has to be adjudicated as per the parameters laid down by the Hon’ble Supreme Court.

15. Mr Deepak Kaushal, learned Senior Counsel for the petitioner, heavily relied upon the order passed by this Court in a petition seeking cancellation of the bail. This reliance is misplaced because the Court had categorically held that the observations made by it were confined to the disposal of the petition and will



have no bearing, whatsoever, on the merits of the case. Secondly, the parameters for granting bail and framing charges are different. The Court framing the charges will do so, even if a grave suspicion exists against the accused that he had committed the offence alleged against him². Whereas, the Court will grant bail if it has a *prima facie* doubt regarding the involvement of the accused in the commission of the crime. Therefore, the parameters applied by the Court while granting the bail cannot be applied at the time of framing the charges, and the reliance upon the order passed by this Court while seeking cancellation of the bail will not help the prosecution.

16. The Medical Officer issued a final postmortem report in which it was mentioned that the cause of death was vascular degeneration of the kidney, consequent to the injury to the left leg. The specific case of the prosecution is that Rakesh Kumar sustained injuries when he was beaten by the petitioners. He stated that accused Mahender Singh had inflicted blows with a Gandasi on his arms and legs, and other persons gave him beatings with sticks. His motorcycle was also damaged in the incident. Therefore, as per the initial statement of the victim, the

² Tuhin Kumar Biswas v. State of W.B., 2025 SCC OnLine SC 2604



injuries were caused by the petitioners and as per the report of the Medical Officer, the injuries sustained by the deceased led to his death; therefore, a grave suspicion existed.

17. The learned Trial Court has to examine the witnesses, and the Medical Officers will explain the reasons mentioned by them in their reports, which will be evaluated at the conclusion of the trial. However, it is impermissible to scuttle the trial without affording an opportunity to the prosecution to prove its case.

18. In view of the above, no fault can be found with the order passed by the learned Trial Court. Hence, the present petition fails, and it is dismissed.

19. The observation made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

18th March, 2026
(Nikita)