



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL REVISION APPLICATION NO. 307 OF 2023**

- 1) Devsing Kirta Valvi  
Age: 34 years, Occu.: Business,  
R/o. Gopalpur, Tal.Taloda,  
Dist.Nandurbar.
- 2) Rajendra @ Rajan Ratilal Padvi  
Age: 35 years, Occu.: Agri.,  
Occu.: Pradhan Hatti, Tal.Taloda,  
Dist.Nandurbar.
- 3) Mogya Krushna Bhil  
Age: 34 years, Occu.: Service,  
R/o. Talve, Tal.Taloda,  
Dist.Nandurbar.
- 4) Dayanand Mangalsing Chavan  
Age : 41 years, Occu.: Agri.,  
R/o. Borad, Tal.Taloda,  
Dist.Nandurbar.
- 5) Ratilal Supadu Valvi  
Age: 42 years, Occu.: Business,  
R/o. Morvad, Tal.Taloda,  
Dist.Nandurbar.

....Applicant/  
Revision Petitioners  
(Org. Accused Nos.9, 12 to 15)

**Versus**

- 1) The State of Maharashtra ....Respondent

.....  
Advocate for Applicants : Mr. Suniket Anil Kulkarni  
APP for Respondent : Mr.S.G.Sangle

.....

**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 06 MARCH, 2026**

**PRONOUNCED ON : 09 MARCH, 2026**

**JUDGMENT :**

1. Revision petitioners have invoked Section 397 read with 401 of the Code of Criminal Procedure (the Cr.P.C.) for challenging order dated 14-07-2023 passed by learned Additional Sessions Judge, Shahada, Dist.Nandurbar, on application Exh.51 in Sessions Case No.66 of 2018 thereby refusing to discharge revision petitioners from offence under Sections 307, 353, 332, 333, 143, 147, 149, 186, 109, 504 of the Indian Penal Code and under Section 37(1)(3), 135 of the Maharashtra Police Act, registered at Taloda Police Station, District Nandurbar.

2. Learned counsel for the revision petitioners pointed out that, revision petitioners are falsely implicated. Names of none of the petitioners are reflected in the FIR, even their roles are not distinctly stated in the FIR. According to him, names of revision petitioners have surfaced only after first remand of some arrested accused. That, merely because revision petitioners were present at the scene of occurrence where there was crowd of 100-150 people indiscriminately revisions petitioners are also named at subsequent point of time as accused. According to him, in entire chargesheet, there is no incriminating material against revision petitioners. That,



statements of witnesses are on hearsay information. That, most of the statements are of Police officials and Government officials. Thus, according to him, there is no material either to frame charge or conduct trial. However, all such aspects are not considered and appreciated by the learned trial Court while rejecting application Exh.51 and so prayers are raised for allowing the revision and discharging the revision petitioners.

3. Learned APP strongly opposed the above on the ground that there was assault on higher Government officials and Police officials, who had been to the scene of occurrence where unfortunately a student studying in Ashram school had suffered electric shock. That, to pacify the grieving family, the said officials have rushed to the spot, but according to him, from the FIR, it is emerging that including present revision petitioners, several others got enraged, took law in their hands and mounted assault on the Government officials and Police officials, who managed to save themselves. According to him, the mob was very violent and acts of accused therein was life threatening to the Government officials, who were performing duties. According to him, there are statements of several injured eye witnesses. He pointed out that, FIR is not an encyclopedia and as



and when names of those involved and surfaced, they were duly named and on sufficient material against them, they are duly chargesheeted. According to him, there are allegations of serious offence being committed like attempt to murder. Therefore, learned trial Court rightly rejected the application Exh.51 and he urges for similar treatment in the revision also.

4. After considering the above submissions, present application seems to be an application for discharge by invoking Section 397 read with 401 of the Cr.PC., therefore, before touching the merits, it would be profitable to give the brief account of revisionary powers of this Court under Section 397 of Cr.PC. Though there are catena of judgments, the landmark judgment of ***Amit Kapoor v. Ramesh Chander and another*** (2012) 9 SCC 460 is relied and the relevant observations therein are borrowed and quoted as under :

*“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well - founded error and it may not be appropriate for the court*



*to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits”.*

5. Here, the revision petitioners are seeking discharge under Section 227 of Cr.P.C. Therefore, it would also be desirable to give brief account of the judicial precedent on discharge and a few landmark judgments which still hold the field, are as under :

In *Dilawar Balu Kurane v. State of Maharashtra*, (2002) 2 SCC 135, the Hon'ble Supreme Court observed that, in exercising powers under Section 227 of the Criminal Procedure Code, 1973, the settled position of law is that the Judge, while considering the question of framing charge under the said Section, 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 and whether the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained to the Court. Only in such a case, the Court will be fully justified in framing charge and proceed with the trial. On the other hand, if the Judge is satisfied that the evidence produced before the Court gives rise to some grave suspicion, then the Judge will be fully justified in discharging the accused.

In *P. Vijayan v. State of Kerala*, (2010) 2 SCC 135, the Supreme Court has held that the Judge is not a mere post office to frame charge, but the Judge should exercise his judicial mind and discretion to determine whether a case for trial has been made out by prosecution. It was further clarified that the Judge should be satisfied that the evidence produced by the prosecution before the Court discloses grave suspicion that the accused has committed the crime.

The Supreme Court has also laid down the following principles :

1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the Trial Judge would be empowered to discharge the accused.
2. The Trial Judge is not a mere Post Office to frame the charge at the instance of the prosecution.



3. The Judge has to merely sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence would consist of the statements recorded by the Police or the documents produced before the Court. It is to be noted here that the Judge has to merely sift the evidence on record and not go in depth of it in order to decide an application for discharge.
4. If the evidence, which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross - examination or rebutted by the defence evidence, if any, 'cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial.
5. It is open to the accused to explain away the materials giving rise to the grave suspicion.
6. The Court has to consider the broad probabilities, the total effort of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This, however, would not entitle the Court to make a roving enquiry into the pros and cons.
7. At the time of framing the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be



accepted as true.

8. There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused.

In *Amit Kapoor* (supra), in paragraphs 17 and 19, the Hon'ble Supreme Court has observed as under :

*“Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 CrPC, unless the accused is discharged under Section 227 CrPC. Under both Sections 227 and 228 CrPC, the court is required to consider the “record of the case” and the documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the section concerned exists, then the court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such jurisdiction. It may even be weaker than a prima facie case. (para 17)*



*At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage.”*

In ***State of Karnataka v. M. R. Hiremath***, (2019) 7 SCC 515, the Supreme Court has observed that, at the state of considering an application for discharge, the Court must proceed on the assumption that the material which has been brought on record by the prosecution should be true and the Court should evaluate the material in order to determine whether the facts emerging from the material, taken on its face value discloses the existence of the ingredients necessary to constitute the offence.

In another case of ***State of Tamil Nadu v. N. Suresh Rajan***, (2014) 11 SCC 709, advertng to the earlier decisions on the subject of discharge, the Supreme Court observed that at the stage of discharge, the probative value of the materials has to be gone into and the Court is not expected to go deep into the matter. Whereas, what is needed to be considered is whether there is a ground for



convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge but for the conviction of the accused, the court should come to the conclusion that the accused has committed the offence. The court further observed that the law does not permit a mini trial at the stage of discharge.

6. Keeping in mind the above settled legal position, perused and sifted chargesheet for limited purpose of ascertaining whether there is sufficient material / ground for framing charge and further make accused persons face trial. FIR dated 28-08-2018 seems to be at the instance of Yadav Sakharam Bhadane, a Police official. Substance of the FIR is that, a boy of tender age studying in 6th Standard in Government Ashram School suffered electric shock at around 07.30 a.m. to 08:30 a.m. and succumbed to the same. On receipt of information, Police rushed to the spot at Salsadi. According to him, when they reached there, already a mob of 100-150 had gathered there. When attempt was made to shift the dead body for autopsy, there was resistance by the mob. It is reported that, it was the say of some persons that unless Project Officer arrives there, they would not



allow shifting of the dead body for autopsy. Accordingly, such information was passed to Tahsildar, who in-turn passed information to Sub-Divisional Police Officer as well as Project Officer. On arrival of said persons, it is alleged that, the mob rushed over the said Revenue officials and Police officials and started manhandling and thrashing to all Revenue officials and Police officials. It is emerging from the chargesheet that, there are statements of injured. Some of the statements are shown to be recorded while some of the Higher Government officials were being treated in the Hospital. Thus, as submitted by learned APP, there are statements of injured witnesses. Learned APP also pointed out that, there is video clipping of entire incident of which panchanama is drawn. Therefore, taking such material and chargesheet into account, it cannot be said that there is no incriminating material.

Learned APP was right in pointing out that in cases of such nature, names of all persons, who are part of the mob, may not be reflected in the FIR and after investigation, names have been incorporated. Therefore, taking above discussion into account, finding no merits, revision application deserves to be dismissed. Accordingly, following order is passed :



**ORDER**

Criminal Revision Application is dismissed.

**( ABHAY S. WAGHWASE )  
JUDGE**

SPT