2026:HHC:6568

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 664 of 2025
Reserved on: 27.02.2026
Date of Decision: 11.03.2026.

Avtar Singh Narang ...Petitioner

Versus

State of H.P. and others ...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] *No.*

For the Petitioner	:	Mr Deepak Kaushal, Senior Advocate, with Mr Abhishek Verma, Advocate.
For Respondents No.1 /State	:	Mr Ajit Sharma, Deputy Advocate General.
For respondent No.2	:	Mr N.S. Chandel, Senior Advocate with Mr Gambhir Singh Chauhan, Advocate.

Rakesh Kainthla, Judge

The present revision is directed against the order dated 12.10.2023 passed by learned Additional Sessions Judge, Paonta Sahib, District Sirmaur (learned Trial Court) in Session Trial No. 20/23 titled State of H.P. vs Sarvjeet Singh @ Sonu vide

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

2026:HHC:6568

which the learned Trial Court dropped the charges under Section 307 of IPC against the respondent No.2 (accused). *(Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)*

2. Briefly stated, the facts giving rise to the present petition are that the petitioner/informant was returning from Gurudwara, Paonta Sahib, on 11.09.2021 in his Scooty bearing registration No. HP-17D-0851. A car bearing registration No. UK07 AJ 5704, being driven by Saravjeet Singh @ Sonu (the accused), was going ahead of him near Union Bank. The informant overtook the car. The car hit the Scooty near Lamba Niwas. The accused, Saravjeet Singh @ Sonu, took out an iron pipe and beat the informant with it. The accused thereafter took out a 'Kripan' and inflicted an injury on the informant's stomach. The accused, Saravjeet Singh, tried to run the informant over with his car. Sonu Gupta witnessed the incident. The informant was taken to the hospital. The police registered the FIR and investigated the matter. The police found during the investigation that the informant and the accused were related to each other, and they had civil disputes pending between them. Saravjeet had registered an FIR No. 145 of 2021 against the

2026:HHC:6568

informant and his brother, and a charge sheet was filed before the Court. The informant had sustained injuries which were stated to be grievous in nature and dangerous to life. Hence, a charge sheet was filed before the Court for the commission of offences punishable under Sections 307, 323, 356 and 506 of the IPC.

3. The matter was listed for consideration before the learned Trial Court on 12.10.2023. Learned Trial Court held that the FIR did not mention that injuries were caused to the informant with the intention to kill. The incident was related to road rage. The initial MLC did not mention that the injury was grievous in nature or dangerous to life. The Medical Officer advised a CT scan. Gaba Hospital, Yamuna Nagar, issued a report stating that the injuries were caused by a sharp weapon and involved vital organs of the body, namely the lungs and intestines. Hence, the injuries were grievous in nature and dangerous to life. This report was not acceptable. All the tests were normal at the time of discharge. No injury was noticed in the discharge summary. The attending circumstances did not show the commission of an offence punishable under Section 307 of the IPC. Hence, the learned Trial Court discharged the accused of the commission of an offence punishable under Section 307 of the

IPC and remitted the matter to the learned Additional Chief Judicial Magistrate, Court No.1, Paonta Sahib, to decide it as per the law.

4. Being aggrieved by the order passed by the learned Trial Court, the informant/petitioner has filed the present petition asserting that the learned Trial Court erred in discharging the accused of the commission of an offence punishable under Section 307 of the IPC. The learned Trial Court could not have recorded a finding regarding the non-applicability of Section 307 of the IPC without examining the Doctor. The Medical Officer had specifically stated that the injury was dangerous to life, and the learned Trial Court erred in dropping the charge under Section 307 of IPC. The informant should have been heard before dropping the proceedings. The medical evidence clearly showed the commission of an offence punishable under Section 307 of the IPC. Hence, it was prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

5. I have heard Mr Deepak Kaushal, learned Senior Counsel, assisted by Mr Abhishek Verma, learned counsel for the

petitioner, Mr Ajit Sharma, learned Deputy Advocate General for the respondent No.1/State, and Mr N.S. Chandel, learned Sr. Advocate, assisted by Mr Gambhir Singh Chauhan, learned counsel for respondent No. 2/accused.

6. Mr Deepak Kaushal, learned Senior Advocate for the petitioner, submitted that the learned Trial Court erred in discharging the accused of the commission of an offence punishable under Section 307 of the IPC. The informant had sustained a grievous injury on his stomach involving the vital parts, namely the lungs and intestines. Therefore, the charge should have been framed for the commission of an offence punishable under Section 307 of the IPC. In any case, the causing of grievous or life-threatening injury is not necessary for the commission of an offence punishable under Section 307 of the IPC. An opportunity to hear should have been provided to the petitioner/informant before discharging the accused. Hence, he prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside. He relied upon ***Piare Lal vs. State of H.P. 2024:HHC:8731***, ***Jaggu vs. State of H.P. 2024:HHC:6778***, and ***State of Madhya Pradesh vs Kanha @ Om Prakash (2019) 3 SCC 605*** in support of his submission.

7. Mr. Ajit Sharma, learned Deputy Advocate General for the respondent No.1/State also supported the submission of Mr. Deepak Kaushal, learned Sr. Counsel for the petitioner and submitted that the learned Trial Court had erred in refusing to frame charges for the commission of an offence punishable under Section 307 of IPC against the accused. Hence, he prayed that the petition be allowed and the order passed by the learned Trial Court be set aside.

8. Mr N.S. Chandel learned Senior Counsel for the respondent No.2/accused submitted that the learned Trial Court had rightly held that the nature of injury did not justify the framing of charges for the commission of an offence punishable under Section 307 of IPC. The Medical Officer who had initially treated the informant had not stated that the informant had sustained any grievous injury which was dangerous to life. He advised a CT scan, but the report of the CT scan was not produced before the Medical Officer. The informant got himself treated in a private hospital and relied upon the reports issued by the private hospital. The credibility of those reports is highly suspect. The learned Trial Court was justified in rejecting the prosecution's version that an attempt to commit murder was made in the

present case. Hence, he prayed that the present petition be dismissed.

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

10. 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 ***State of Maharashtra* v. *Som Nath Thapa*, *(1996) 4 SCC 659*** and ***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.

11. 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***

2026:HHC:6568

that the Court can sift and weigh the evidence to determine if a *prima facie* case exists against the accused. It was observed on 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.

12. 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."

2026:HHC:6568

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

14. There can be no dispute with the proposition of law that the infliction of injuries is not necessary for attracting the provisions of Section 307 of IPC, and attending circumstances have to be seen to determine whether the act of the accused constituted an offence punishable under Section 307 of IPC. In the present case, one '*kripan*' blow was inflicted on the stomach, and it is highly doubtful that had the death occurred, the offence would have been punishable under Section 302 of the IPC[2]. Therefore, *prima facie,* the charge could not have been framed for the commission of an offence punishable under Section 307 of the IPC in the present case.

15. A heavy reliance was placed upon the opinion of the Medical Officer that the injuries were dangerous to life to submit that the report *prima facie* shows a commission of an offence punishable under Section 307 of the IPC. This submission cannot be accepted. Section 320(8) of IPC thus defines any hurt which endangers life or which causes the sufferer to be in severe bodily pain, or unable to follow his ordinary pursuits, as grievous hurt. It

[2] Nandkumar v. State of Gujarat, 2025 SCC OnLine SC 2374

2026:HHC:6568

was laid down by the Punjab and Haryana High Court in ***Atma Singh v. State of Punjab, 1980 SCC OnLine P&H 193: ILR (1981) 1 P&H 500*** that IPC recognises only four kinds of injuries — simple, grievous, injuries inflicted with intent to commit murder and injuries sufficient to cause death. No provision in the IPC recognises an injury dangerous to life. The injury endangering life falls within Section 320(8) of IPC, and such an injury is grievous. It was observed at page 504:-

> "**10.** When the doctor is required to carry out medico-legal examination of the injury suffered in a criminal assault, he is required to examine the injury from two stand points (1) for the purpose of opining the kind of weapon used to inflict the injury in question and (2ndly) to form an opinion regarding the degree of seriousness of the injury in order to enable to see as to what offence has the accused committed by inflicting the injury in question. The Penal Code, 1860 recognises, from standpoint of seriousness only four types of injuries (1) simple injuries; (2) grievous; (3) injuries of the kind inflicting with intent to commit murder described in clause Firstly and 2ndly of section 300 of the Penal Code, 1860, (4) injury sufficient to) cause death in the ordinary course of nature envisaged by clause Thirdly of Section 300 of the Penal Code, 1860. There is no provision in the Penal Code, 1860, which envisages or refers to an injury described as 'dangerous to life'. The medico-legal examination of an injured person is intended to enable the Investigating Agency and the Court to find out the nature of the offence, and, therefore, the doctor examining an injured person has to opine that the injury in question is one or the other of the types recognised in the Penal Code, 1860, for the purposes of a given offence.

2026:HHC:6568

When a doctor describes an injury as 'dangerous to life', one has to see what had the doctor intended to convey thereby. Is one to hold that since injury has not been described by the doctor as one which 'endangered life', so the concerned injury cannot be held to be grievous on the specious ground that an injury described as 'dangerous to life' is not as serious an injury which 'endangers life'

11. *It appears that the doctors who had been conducting the medico-legal examinations have been using the term 'dangerous to life as synonymous with an inquiry which endangers life'*. Even the Court, at times have considered an injury described as dangerous to life as an injury envisaged in clause Eighthly of section 320 of the Penal Code, 1860. In this regard, reference can be made to ***Muhammad Rafi v. Emperor [AIR 1930 Lahore 305]***. In that case, the injury was on the right side of the neck, about 2½ × ¾ in dimension, inflicted with a sharp-edged weapon. The doctor had, in fact, in that case, deposed that there was every possibility of the deceased surviving but for the wound becoming septic, apparently as a result of it being pressed with hands and bandaged with dirty cloth in the initial stages before the deceased was taken to the hospital. The Court held that though a finding that the appellant knew that his act was likely to cause death was not justified, but at the same time, a wound on the neck must at least be considered to be 'dangerous to life' within the meaning of Cl. 8, section 320, Penal Code, 1860 and therefore, 'grievous'.

12. Palekar, J. too in ***Jai Narain Mishra v. State of Bihar [1972 CAR 19 (S.C.).]*** held a penetrating wound 1½ ×½ chest wall deep on the right side of the chest caused with a *bhala* and described as 'dangerous to life', as grievous injury and in the later part of paragraph 11 called this injury as one endangering life.

13. The expression 'dangerous' is an adjective, and the expression 'endanger' is a verb. An injury which can put life in immediate danger of death would be an injury which can be termed as 'dangerous to life' and, therefore, *when a*

doctor describes an injury as 'dangerous to life', he means an injury which endangers life in terms of clause 8 of section 320, Penal Code, 1860, for, it describes the injury 'dangerous to life' only for the purpose of the said clause. He, instead of using the expression that this was an injury which 'endangered life', described it that the injury was 'dangerous to life', meaning both the time the same thing.

14. *K.S. Tiwana, J. in* **Sukhdev Singh v. The State of Punjab [Crl. Appeal No. 1490 of 1974** decided on January 18, 1979.] , was concerned with the statement of a doctor who had merely externally examined the injury and had opined it to be dangerous to life. The doctor who had performed the operation had not preferred any opinion. The injury was a penetrating wound with clean cut margins of the size of 1#fr¼> × ½ "on the left side of the chest, 5" below the nipple. The depth of the wound was not measured by the doctor who had given the opinion. In this case, the learned Judge did not accept the opinion of the doctor that the injury was dangerous to life on the ground that he was not qualified to say so merely by looking at the injury and the one who had performed the operation and had seen the damage had not given any such opinion. The learned Judge did not go into the question that an injury described as dangerous to life in no case could be considered as a grievous injury.

15. S.S. Dewan, J. in ***Hairbans Singh v. The State of Punjab [Crl. Appeal No. 1007 of 1975*** decided on February 8, 1979.] observed as did S.C. Mital, J., in *Jagrup Singh's case* that the term 'dangerous to life' is milder than the expression 'endangers life'. He merely followed his earlier decision, holding that an injury described as dangerous to life cannot be considered grievous.

16. A.S. Bains, J. in ***Surjit Singh alias Kala v. The State of Punjab [Crl. Appeal No. 355 of 1976 decided on 26th April, 1979.*** merely followed the decision in ***Jagrup Singh's case*** and held that an injury described as 'dangerous to life' would not satisfy the requirement of clause 8 of section 320, Penal Code, 1860 and would not be a grievous injury.

> In all these decisions, with respect, there is no discussion in depth.
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> **17.** We are of the view that the Court is not absolved of the responsibility while deciding a criminal case to form its own conclusion regarding the nature of the injury, Expert's opinion notwithstanding. The Court has to see the nature and dimension of the injury, its location and the damage that it has caused. Even when an injury is described as to be one which endangers life, the court has to apply its own mind and form its own opinion in regard to the nature of the injury, having regard to the factors that should weigh with the Court, already mentioned. *We are also firmly of the view that wherever a doctor describes an injury as 'dangerous to life' and the nature of the injuries are such which could merit such a conclusion, then such an injury has to be treated as 'grievous hurt' of the description mentioned in the first portion of clause 8 of section 320 of the Penal Code, 1860*. (Emphasis supplied)

16. Therefore, *prima facie,* the offence punishable under Section 307 of the IPC is not made out based on the medical opinion.

17. It was submitted that the learned Trial Court did not issue a notice to the petitioner/informant before discharging the accused, and the order is bad. This submission cannot be accepted. It was laid down by the Delhi High Court in ***Vivek Kumar Gaurav v. Union of India, 2024 SCC OnLine Del 793*** that there is no mandate to issue notice to the informant at the pre-trial stage; however, he can participate himself. It was observed:

2026:HHC:6568

> **"18.** There is no mandate in the statute obliging the Criminal Court to issue notice to the complainant/victim at the pre-trial stage. We are unable to accept the suggestion of the Petitioner that it should be made mandatory for the Criminal Court to issue a notice to the complainant/victim at every stage of the pre-trial and trial in criminal proceedings. In the opinion of this Court, such a direction is likely to result in avoidable and undesirable delays in trials and is likely to work against the objective of expeditious trials. The suggestion of the petitioner, if accepted, would act as '*a treatment worse than the disease*'. Thus, in view of the judgment of the Supreme Court in ***Jagjeet Singh v. Ashish Mishra (2022) 9 SCC 321*** and the amendments made to CrPC by the 2008 Amendment Act, there are sufficient rights given to the victim/complainant to effectively participate in pre-trial and trial proceedings if he/she so elects. This Court therefore finds no ground for issuing directions as sought in prayer (b) of the writ."

18. Thus, it cannot be said that the learned Trial Court had erred in refusing to frame charges for the commission of an offence punishable under Section 307 of the IPC, and no interference is required with the order passed by the learned Trial Court. However, it is expressly made clear that in case any material is brought on record during the trial before the learned Magistrate disclosing the commission of an offence punishable under Section 307 of the IPC, the learned Magistrate would be free to exercise the discretion conferred upon him under Section 323 of the CrPC to commit the trial to the Court of Sessions.

2026:HHC:6568

19. The observations made hereinabove are regarding the disposal of this petition and will have no bearing, whatsoever, on the case's merits.

(Rakesh Kainthla)
Judge

11th March, 2026
(Nikita)