

State Vs. Kedari Lal @ Brijesh @ Girdhari & Anr.

CNR No.: DLCT01-016453-2024

SC No.: 696/2024

FIR No.: 15/2024

Under Sections: 392/394/397/201/411 IPC

P.S.: Sarai Rohilla Railway Station

27.02.2025

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Hari Dutt, Ld. Remand Counsel is present.
Mr. R.P. Prajapati, Ld. Counsel for the accused,
namely, Shiv Kumar. (*through video conferencing mode*)
Both the accused persons are present on bail.

ORDER ON CHARGE

1. By means of the present order, this Court would determine whether the accused persons, namely, Kedari Lal @ Brijesh @ Girdhari and Shiv Kumar (*hereinafter collectively referred to as the 'accused persons'*) are to be charged for the offence(s) alleged against them in the chargesheet or for any other offence or the accused persons are to be discharged.

2. Succinctly, the case of the prosecution is that on 18.03.2023, on receipt of PCR Call vide DD No. 35, the concerned police official(s) reached at the spot, *i.e.*, Nangloi Railway Station, where it was determined that the victim had been taken to Sanjay Gandhi Hospital. On reaching there, the concerned police official collected the MLC No. 4461/2024 of the victim, namely, Sanjay Beniwal, besides it was determined that the victim had been shifted to Agrasen Hospital, Punjabi Bagh. Subsequently, the police official(s) reached at the said Hospital, where the victim/complainant, Ankit Beniwal as well as his cousin, namely, Sandeep Beniwal and friend, namely, Sunny were present. At that point in time, the complainant/victim tendered his statement, wherein it was *inter alia* asserted that on

18.03.2024, he/the complainant had boarded Kisan Express train to go to Sirsa from Old Delhi Railway Station. As per the complainant, when they had reached at Nangloi Station and upon the train proceeding around 300 mts. from the said station at around 03:00 p.m., when he/the complainant was present at the gate of the train, one person snatched his mobile phone of Samsung A-14 make from his possession. In the said process, as per the complainant, when the said person had shoved him to snatch his mobile phone and was jumping from the train, the complainant also fell down from the train. Consequently, it was proclaimed that his/complainant's leg got entangled in the railway track. Markedly, the complainant's cousin, namely, Sandeep Beniwal and friend, namely, Sunny, while corroborating the said version further asserted that due to the said fall, complainant's leg was amputated. Notably, under said facts and circumstances, the instant FIR came to be registered, and investigation ensued. Pertinently, during the course of investigation, accused persons were apprehended and the robbed mobile phone is asserted to be recovered from the possession of accused, Shiv Kumar. Correspondingly, accused, Kedari Lal was duly identified in his TIP proceedings on 06.04.2024.

3. Ld. Addl. PP for the State submitted that the facts and circumstances specified under the chargesheet, including the documents/material placed on record, are sufficient to demonstrate a *prima facie* case against the accused persons for the commission of offence(s) levelled against them in the chargesheet and to consequently, proceed with the framing of charge(s) against them.

4. *Per contra* Ld. Counsel for the accused persons submitted that no case against the accused persons for the

offence(s) is even *prima facie* established and that the accused persons have been falsely implicated in the present case. Ld. Counsel further submitted that the material placed on record is grossly deficit, besides there have been serious infirmities in the investigation process, belying the case of the prosecution. Further, as per the Ld. Counsel for accused, Kedari Lal, ingredients of offence(s) under Section 392/397 IPC are not established in the instant case, besides there is no evidence to attribute any criminality against the said accused of the charges/allegations levelled against him. Further, as per the Ld. Counsel, there is no allegation of use of any deadly weapon by the accused or of commission of any assault in order to facilitate commission of theft/robbery in the instant case. In support of the said contentions, reliance was placed upon the decisions in; ***Indrasana Kuer v. Sia Ram Pandey, 1970 CrLJ 647***; and ***Nand Lal v. State, 2007 CrLJ 3300***.

5. The arguments of Ld. Counsel for the accused persons and that of Ld. Addl. PP for the State have been heard as well as record(s)/material placed on record, including the written arguments/written submissions on charge, filed on behalf of the accused person(s), thoroughly perused.

6. Before proceeding further, this Court deems it pertinent to outrightly note that the law is settled¹ that at the stage of framing of charges, neither can the truth, veracity and effect of the prosecution case be meticulously judged, nor can any weight to be attached to the probable defence of the accused. On the contrary, at such a stage, only the sufficiency of ground for proceeding against the accused, on a general consideration of

¹ ***State of Bihar v. Ramesh Singh, AIR 1977 SC 2018***

materials placed before the Court by the investigating police officer is relevant. In fact, the probative value² of the material on record cannot be gone into, and the material placed on record by the prosecution has to be accepted as true at that stage. Relevantly, at the stage of framing of charge, only the police report³ is required to be considered and the defence of the accused⁴ cannot be looked into. Further, though, sifting of evidence is permissible⁵, however, scanning of evidence in detail is not. Concomitantly, it is trite law⁶ that the inconsistency in the material produced by the prosecution or defect in investigation⁷, cannot be looked into for discharge of an accused, in the absence of full-fledged trial. Appositely the Hon'ble Supreme Court⁸ in ***State of Maharashtra v. Salman Salim Khan, (2004) 1 SCC 525***, unambiguously asserted in this regard, as under;

“12. We are of the opinion that though it is open to a High Court entertaining a petition under Section 482 of the Code to quash charges framed by the trial court, same cannot be done by weighing the correctness or sufficiency of evidence. In a case praying for quashing of the charge, the principle to be adopted by the High Court should be that if the entire evidence produced by the prosecution is to be believed, would it constitute an offence or not. The truthfulness, the sufficiency and acceptability of the material produced at the time of framing of charge can be done only at the stage of trial...”

(Emphasis supplied)

² *Soma Chakravarty v. State, (2007) 5 SCC 403*

³ *State Anti-Corruption Bureau, Hyderabad & Anr. v. P. Suryaprakasam, (1999) SCC (Cri.) 373 and State of Orissa v. Debendra Nath Padhi, 2005 (1) SCC 568*

⁴ *State of Gujarat v. Dilipsinh Kishorsinh Rao, 2023 SCC OnLine SC 1294*

⁵ *State of Maharashtra v. Priya Sharan Maharaj & Ors., (1997) 4 SCC 393*

⁶ *Sheoraj Singh Ahlawat v. State of U.P., (2013) 11 SCC 476*

⁷ *State of Tamil Nadu by Inspector of Police v. N. Suresh Ranjan & Ors., (2014) 11 SCC 709*

⁸ *Umesh Kumar v. State of A.P., (2013) 10 SCC 591; State (NCT of Delhi) v. Laxmi Narayan, 2023 SCC OnLine Del 5064; and Mandeep Gandhi v. State (NCT of Delhi), 2021 SCC OnLine Del 2756.*

7. Needless to further emphasize⁹ at the stage of charge, court is not even required to record detailed reasons as to why charge is framed, rather¹⁰, a very strong suspicion founded upon materials placed before the Court, which leads it to form a presumptive opinion as to the existence of factual ingredients constituting the offence alleged, may justify the framing of charges. In fact, it is a settled law¹¹ that at the stage of framing of charge, the sufficiency of materials for the purpose of conviction is not the requirement. In fact¹², it is only when no case is made out even after presuming entire prosecution evidence, only then can an accused be discharged. Notably, the Hon'ble Supreme Court in *Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia*, (1989) 1 SCC 715, while *inter alia* explicating the principles as well as the scope of enquiry for the purpose of discharging an accused observed as under;

“14. ... In fact, Section 227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused. It provides that “the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused”. The “ground” in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate enquiry in sifting and weighing the material. Nor is it necessary to delve deep into various aspects. All that the court has to consider is whether the evidentiary material on record if generally accepted, would reasonably connect the accused with the crime. No more need be enquired into.”

(Emphasis supplied)

⁹ *Bhawna Bai v. Dhanshyam & Ors.*, (2020) 2 SCC 217

¹⁰ *Supdt. and Remembrance of Legal Affairs, West Bengal v. Anil Kumar Bhunja*, AIR 1980 SC 52 and *Sajjan Kumar v. CBI*, (2010) 9 SCC 368

¹¹ *Sonu Gupta Vs. Deepak Gupta & Ors.*, (2015) 3 SCC 424

¹² *Manjit Singh Viridi v. Hussain Mohammed Shattaf*, (2023) 7 SCC 633

8. Therefore, mindful of the aforesaid principles, in light of the arguments addressed by the Ld. Counsel for accused persons as well as that by the Ld. Addl. PP for the State, this Court outrightly observes that from the facts and circumstances of the case, material and the documents placed on record, including the contents of the chargesheet, seizure/recovery memo(s), statements of witnesses, bill and MLC of the complainant's mobile phone, etc., *prima facie* case under Sections 394/397 IPC stands established against the accused, namely, Kedari Lal @ Brijesh @ Girdhari; and *prima facie* case under Section 411 IPC stands established against the accused, namely, Shiv Kumar. Further, from the perusal of case record, it is revealed that there is strong suspicion and sufficient material/ground(s) to proceed against the said accused persons, besides there are witnesses who can depose against them. In so far, as the contentions of the Ld. Counsel for the accused, namely, Kedari Lal @ Brijesh @ Girdhari regarding the non-use of deadly weapon is concerned to repel the charges under Section 397 IPC are concerned, the same do not find favour with this court at this stage in view of factum of complainant's amputation of leg at the time of commission or robbery and the words, “...at the time of committing robbery..., the offender..., or cause grievous hurt to any person, or attempts to cause ... or grievous hurt to any person...” under the said provision. Simultaneously, this Court unambiguously observes that it is a settled law that mere defect in investigation cannot be a ground for discharge. Reference in this regard is made to the decision of the Hon'ble Supreme Court in *State of Tamil Nadu by Inspector of Police v. N. Suresh Ranjan & Ors., (2014) 11 SCC 709*, wherein the Hon'ble Court in unambiguously remarked as under;

*“32.4. ... We are of the opinion that this was not the stage where the court should have appraised the evidence and discharged the accused as if it was passing an order of acquittal. Further, defect in investigation itself cannot be a ground for discharge. In our opinion, the order impugned [N. Suresh Rajan v. Inspector of Police, Criminal Revision Case (MD) No. 528 of 2009, order dated 10-12-2010 (Mad)] suffers from grave error and calls for rectification”
(Emphasis supplied)*

9. In so far as the contentions of the Ld. Counsel for the accused persons pertaining to accused persons’ false implication in the present case or of recovery of mobile phone being planted, are, in the considered opinion of this Court, more in a nature of accused persons’ defence, which cannot be considered by this Court at the present stage. Apposite to further observe here that though, this Court though holds highest regard for the judgment(s) cited by the Ld. Counsel for the accused persons, however, the same would not come to the aid and/or rescue of the accused persons, as the facts and circumstances as well as the stage of the present proceedings are clearly distinguishable.

10. Accordingly, in view of the foregoing, charge(s) under **Sections 394/397 IPC** are framed against the accused, namely, **Kedari Lal @ Brijesh @ Girdhari** and charge under **Section 411 IPC** is framed against accused, namely, **Shiv Kumar**. The said charges are read out to the accused persons in vernacular language and upon the accused persons comprehending the same, they have pleaded not guilty and claimed trial.

11. List for PE on **16.05.2025**.

12. Issue summons against PW Ankit Beniwal, PW Sandeep Beniwal and PW DO HC Rajesh (S. No. 11) along with

the concerned **IO/ASI Bhupender Singh** for the next date of hearing.

(Abhishek Goyal)
ASJ-03, Central District,
Tis Hazari Courts, Delhi
27.02.2025