

SC 439/2023
STATE Vs. AVINASH AND ORS.
FIR NO. 250/2023
PS Model Town

13.03.2026

Present: Dr. Sarita Rani, Ld. Addl. PP for the State.

All accused in person on bail.

Sh. Sidharth Gaurav and Sh.Chetan, ld. Counsel for complainant along with complainant in person.

Ms. Aastha Vashist, ld. Counsel for accused Ashwani.

Sh. Jitender Kumar, ld. Counsel for accused Sumit Kumar Singh and Tarun, through VC.

It is submitted by accused Avinash that he is not able to engage a private counsel and he may be provided legal assistance at state expenses.

In view of the request made by accused Avinash, Ms. Shivani Giri, having mobile no. 9319321275, Enrollment No.D/4237/2017 office at: Second Floor Library, Rohini District Court, is appointed Amicus Curiae for accused Avinash.

Arguments on the point of charge heard.

ORDER ON CHARGE

1. Ld. Counsels for accused persons has conceded for charge under Section 307/325/34 IPC.

2. Ld. Counsels have argued that accused persons have been falsely implicated and they have nothing to do with the alleged offence. It is further argued that more specifically offence under Section 452 IPC is not made out against the accused persons.

3. On the other hand, Ld. Addl. PP for the State duly assisted by ld. Counsel for the complainant has argued that all the offences along with offence under Section 452 IPC has been duly made out against all accused persons as on 08.03.2023, at about 4.30 P.M., at stairs of Second Floor of Flat No. 4/53 Double Storey, Vijay Nagar, Delhi, all accused persons in furtherance of their common intention committed house trespass in the house of the complainant.

Ld. Counsels for the complainant have relied upon case titled as **A. Janga Reddy & Ors. Vs. A. Indira Reddy and another Criminal Petition No. 3797 of 2011 decided by Hon'ble Andhra High Court** and same has been duly perused.

4. Record perused.

5. At the very outset it is pertinent to note the case law on the point of charge and the considerations to be kept in mind for framing charge. It is a settled law that at the stage of charge, only prima facie case is to be looked into and the court is not to marshal the evidence and meticulous examination of the material on record is not required and the court is required to examine the question only prima facie. In the case of ***Union of India Vs. Praful Kumar and Anr. (1979) 3SCC76*** it was held as under:

1. that the judge while considering the question of framing the charges U/s 228 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.

2. 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.

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.

4. that in exercising his jurisdiction U/s 227 of the Code the judge which under the present Code is a senior and experienced Code cannot act merely as a post office or a mouth piece 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 appearing in the case and so on. This however does not mean that the judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

In the case of *West Bengal Vs. Anil Kumar (1979) 4 SCC 274* the Hon'ble Supreme Court held that “*the standard of test, proof and judgment which is to be applied finally before finding the accused guilty or otherwise is not exactly to be applied at the stage of Section 227 or 228 of the Code....*”

From the above discussion it seems well settled that at the stage of charge court is required to evaluate the material documents on record with a view to finding out if the facts emerging there from taken at their face value disclose the existence of all the ingredients constituting the alleged offence *prima facie*.

6. On perusal of the charge sheet and documents on record, **a prima facie case under Section 307/325/34 IPC is made out against all accused persons.**

So far as offence under Section 452 IPC is concerned, there are specific allegations of house trespass against the accused persons, hence, relying upon the abovesaid judgment, prima facie, **offence under Section 452 IPC is also made out against all the accused persons including the offence under Section 307/325/34 IPC.**

7. Accordingly, charge for the offence U/s 452/307/325/34 IPC has been framed against all accused to which they pleaded not guilty and claimed trial.

Be listed for PE on **30.04.2026.**

PWs mentioned at serial no. 1 & 2 alongwith IO and MHC (M) be summoned for the NDOH.

(Vandana)
Addl. Sessions Judge-02(North)
Rohini Courts Delhi
13.03.2026