

FIR No. 101/2024
PS Amar Colony
U/s 307/326 IPC
State Vs. Harmeet Singh

13.01.2025.

ORDER ON THE POINT OF CHARGE

1. Today, matter is fixed for orders on the point of charge.
2. *Briefly*, the facts of the present case are that FIR in the present case was registered on the DD No. 72A dated 01.04.2024 regarding "*National Heart Institute, East of Kailash, worker ne dusre worker ke chaku mar diya, chaku marne wala bhag gaya hai, jise chaku laga hai vah admit hai*". Thereafter, police reached at the spot where it was revealed that Director Operations Wing Commander B D Jena has been injured at Right Sub Mandibular region with deep incised wound of 8-10 cm approx. by one Harmeet Singh (accused herein). Accused was running HIS Dietary Services who used to supply food at National Heart Institute (in short 'NHI Hospital'). As per the injury, MLC, inspection of crime scene and circumstances, a case u/s 307 IPC was registered investigation ensued.
3. During course of investigation, injured Sh. Banshi Dhar Jena Wg. Cdr. (R) Director Operations NHI Hospital East of Kailash, New Delhi was examined and his statement u/s 161 Cr.P.C. was got recorded and site plan on his instance was also prepared. Further, search of accused

was conducted who remained at large and was arrested on 03.04.2024 and clothes worn by him at the time of incident and his mobile phone were seized and pointing out memo was prepared. The exhibits i.e. blood sample, earth control, blood stained tie, blood stained shirt, paper cutter, clothes of accused & blood sample of injured etc. were also seized and sent to FSL Rohini. During further course of investigation 02 pen-drives containing video footage of incident dated 01.04.2024 at NHI Hospital, East Of Kailash Delhi, DVR with hard disc, were seized and after completing the investigation, charge-sheet was filed in the present case.

4. Ld. Counsel for accused has submitted that the allegations against the accused are baseless and there insufficient material that accused had any intention to cause the death of the injured/ complainant and therefore, allegations do not fulfill the requisite ingredients to establish a prima facie case against the accused and therefore u/sec. 307/26 IPC is not attracted towards him. It is further argued that the accused has been falsely implicated in the present matter and that he is liable to be discharged.

5. Ld. Addl. PP for the State has opposed the submissions made by Ld. Counsel for accused and has submitted that the accused has committed offences in question which entails grave punishment and had caused severe injuries to the injured persons which is evident from MLC of injured wherein the injury has been opined as 'grievous incised

wound'. Ld. Addl. PP has argued that there is ample evidence collected by the police during investigation against the accused and prima facie case punishable u/sec. 307/326 IPC is made out. He has further submitted that based on the contents of charge-sheet and the documents annexed with the same, aforesaid offence, are prima-facie made out against all accused.

6. Arguments on the point of charge have already been heard and I have carefully gone through the record.

7. The relevant laws concerning the legal aspect of framing of charge, are as follows :-

8. Sec. 238 to Sec. 250 CrPC, deal with the aspects of framing of charges, so far as warrant case is concerned.

9. In ***Niranjan Singh Karam Singh Punjabi Vs. Jitendra Bhimaraj Bijje, 1990 AIR 1962***, Hon'ble Apex Court emphasized that during the stage of framing charges, the courts should consider that the allegations made against accused are prima facie believable. The framing of charges relies on the "subjective satisfaction" of the courts. This implies that courts must assess whether there is a reasonable basis to presume that the accused is involved in the offence.

10. In ***State of Tripura Vs. Bhupen Dutta Bhowmik, Crl. Appeal. No. 623/1992 decided on 26.04.2001***, Hon'ble Apex Court underscored that at the stage of framing charges, the courts are obligated to examine the broad possibilities of the case. They must take into account preliminary evidence and ensure that the charges are justified based on the allegations made.

11. In ***Mauvin Godinho Vs. State of Goa, Crl. Appeal No. 315/2011, decided on 17.01.2018***, Hon'ble Apex Court outlined the standard for framing of charges by emphasizing that a prima case against the accused is established when the evidence taken as a whole is sufficient to induce the court to believe in the existence of essential elements of the charge or to consider their existence highly probable. However, the courts should refrain from conducting a detailed examination of evidence at this stage, as if it were a trial.

12. Whether charge will stand proved or not, is to be determined after evidence is recorded and it is not a valid consideration at the stage of framing of charge. Reliance in this regard is placed upon case law titled as ***State of H.P. Vs. Krishan Lal Pradhan, AIR 1987 SC 773***.

13. Material brought on record by prosecution at the stage of framing of charge, has to be accepted as true. Reliance in this regard is placed upon case law titled as ***State of Maharashtra Vs. Somnath & Anr., AIR 1996 1744***.

14. While framing charges, court is required to evaluate materials and documents on record to decide whether facts emerging therefrom taken at their face value would disclose existence of ingredients constituting the alleged offence. At this stage, the court is not required to go deep into probative value of materials on record. It needs to evaluate whether there is a ground for presuming that accused had committed offence. But it should not evaluate sufficiency of evidence to convict accused. Even if, there is a grave suspicion against the accused and it is not properly explained or court feels that accused might have committed offence, then framing of charge against the accused is justified. It is only for conviction of accused that materials must indicate that accused had committed offence but for framing of charges if materials indicate that accused might have committed offence, then framing of charge is proper. Materials brought on by prosecution must be believed to be true and their probative value cannot be decided at this stage. The accused entitled to urge his contentions only on materials submitted by prosecution. He is not entitled to produce any material at this stage and the court is not required to consider any such material, if submitted. Whether the prima-facie case made out depends upon fact and circumstances of each case. If two views are possible and materials indicate mere suspicion, not being grave suspicion, against accused then he may be discharged. The court has to consider broad probabilities of case, total effect of evidence and documents produced before it. The court should not act as mouthpiece of prosecution and it is

impermissible to have roving enquiry at the stage of framing of charges. Reliance in this regard is placed upon case law i.e. Sheoraj Singh Ahlawat v. State of U.P. (2013) 11 SCC 476.

15. After considering the aforesaid observations of echelon of judiciary, it is clear that at the stage of framing of charge, this court is to prima-facie consider whether there are sufficient grounds for presumption that accused has committed the alleged offences, then he can be charged with the same. Further this court has to proceed on the assumption that material collected by the police is true and based on said assumptions has to determine whether facts which emerge from the record in this case taken on its face value disclose the existence of the ingredients necessary to constitute the alleged offence. This court is not supposed to appreciate the evidence collected by the police threadbare.

16. So, in the wake of above mentioned case laws, it is clear that prosecution case is not to be seen with suspicion, at the very outset, at the time of framing of charge. Charges are mere formal accusations and guilt of accused is proved, only at the conclusion of trial. A strong prima facie case regarding guilt of an accused is sufficient to frame charge against an accused. Detailed enquiry based on appreciation of evidence, is not to be done at the stage of framing of charge. Credibility of witnesses, truthfulness of available material and defence of accused, are not to be appreciated at the stage of framing of charge.

17. During the course of investigation, IO had examined complainant/ injured and other prosecution witnesses. The scene of crime was visited by the Crime Team and from spot suspected weapon of offence and exhibits were collected and seized by the police. Further, the accused has assaulted a retired decorated defence personnel Wing Commander (R) B. D. Jena who is also a senior citizen having 66 years of Age. The attack was prima facie seem to be made deliberately with an intention to kill the complainant/ injured in cold blood by the accused. The presence and conduct of the accused is established through CCTV footage and also supported by the eye witness/ caller Ajay.

18. The witness and also the injured have clearly mentioned the manner in which the accused had committed the offence. As per the statement of witnesses, victim and contents of charge sheet, accused Harmeet Singh was actively involved in the commission of crime of the present case.

19. Further, as per the MLC of injured, he received 'grievous injury'. The allegations against the accused are directed and specific in nature. Therefore, grounds taken by accused, is not tenable and cannot be considered at the time of framing of charge.

20. As per prosecution, there are ample evidence against the accused to have committed the offence. Further, the case is at the stage of framing of charges and the prosecution evidence is yet to commence. At this stage, the truth, veracity and effect of the evidence which the

prosecutor proposes to adduce, are not to be meticulously judged. The standard of test, proof and judgment which is to be applied finally before finding the accused persons guilty or otherwise, is not exactly to be applied at the stage of Section 227 or 228 of the Code of Criminal Procedure, 1973.

21. Based on the pieces of evidence collected during the investigation, the prosecution story cannot be disbelieved at this stage, just like that. There arises strong presumption in favour of the said prosecution story for framing of charge U/s 307/326 IPC.

22. **In view of the aforesaid appreciation and conclusion, I conclude that prima-facie charge punishable U/Sec. 307/326 IPC, is made out against the accused Harmeet Singh.**

Now, put up for framing of charge on 10.02.2025.

[Sheetal Chaudhary Pradhan]
ASJ-02, South-East/Saket/Delhi
13.01.2025