

**IN THE COURT OF MS. SHEETAL CHAUDHARY PRADHAN
ADDITIONAL SESSIONS JUDGE-02, SOUTH-EAST DISTRICT
SAKET COURTS, NEW DELHI**

FIR No.94/2024
PS Amar Colony
U/s 302/34 IPC
State Vs. Gulam Sarwar & Ors.

ORDER ON THE POINT OF CHARGE
27.01.2026

1. Today, matter is fixed for order on the point of charge. Arguments have been heard.

2. *Briefly*, facts of the present case as per FIR are that on 25.03.2024 a PCR call vide DD No 26A was received that one man is laying unconscious at ODS Lajpat Nagar IV Delhi. Police reached the place i.e in front of M- 41 ODS Lajpat Nagar IV Delhi and found a dead body of a person was lying on road in front of M-41 ODS Lajpat Nagar IV Delhi. CATS Ambulance was also reached there and they declared him brought dead. Thereafter, Dead Body was shifted to AIIMS Mortuary for post mortem and Doctors prepared the MLC of deceased and opined injuries/ bruises on the whole body of deceased. Thereafter, a case U/Sec. 302 IPC was registered and investigation ensued. During investigation, dead body of victim was inspected and Site Plan of place was prepared. CCTV footage of cameras installed near the SOC was checked and after analyzing the CCTV footage, it was found that the

deceased was seen near shop No, M-13 ODS Lajpat Nagar IV Delhi at 1:26 AM on 25.03.2023. Some video clips of CCTV cameras installed by the owner of Durga Cloth house at M-17 ODS Lajpat Nagar IV New Delhi situated near Gulaam Shop, was obtained and same were analyzed and it was found that deceased was seen while going towards M-15 ODS Gulaam Godown, which is behind the shop No M-13 Gulaam shop and his other associates namely Nabi, Arman, Laadle@ Bunty, Rizwan, Mansoor, Muzaffar Sardar @ Gyas, Naseem and Yunus are also seen at the place of incident and their activities were suspicious. In CCTV footage, at 1:26:38 AM Nabi Hussain and Arman caught and they carry him towards Godown M-41 ODS Lajpat Nagar IV Delhi owned by accused Gulaam Sarwar. At 1:26:49 AM other accused Laadle @ Bunty are seen running towards M-41 ODS Lajpat nagar Delhi. During further investigation, Mobile Numbers of accused Gulaam and his associates were obtained and CDR of Gulaam and some other persons /suspect were obtained and analyzed. After analyzing the CDR of accused Gulaam and his associates it was found that Gulaam was called by his worker at 1:30 AM and thereafter Gulaam location has been found at place of incident at about 1:48 AM. The CDR of accused persons was obtained which was very doubtful. On 27.03.2024, on the basis of secret information accused Gulaam and his associates were apprehended, interrogated and arrested and their disclosure statements were recorded in which they confessed their guilt. Accused Gulam also disclosed that he and his associates interrogated regarding previous theft, him and became unconscious and when there was no movement inside the

deceased, they thought that he was dead and they threw him out. Thereafter, on the instance of accused Gulaam exhibit i.e two cut piece of cloths, Dandas, Bottle were recovered from SOC i.e M-41 ODS Lajpat Nagar IV Delhi, parcel were prepared, sealed and taken into police possession vide seizure memo. Pointing out memo of place of incident was prepared on the instance of all accused persons. As per the investigation accused Gulaam Sarwar reached at place of incident at 1:48:38 AM and location of accused Gulaam Mobile Phone was found at place of incident at the time of incident. On 30.03.2024, PM of deceased was conducted at AIIMS Hospital. After the PM the Doctors provided the exhibits (cloths of deceased, blood on gauze, nail clippings of both the hands and Viscera all alongwith sample seal) and same were taken into police possession vide seizure memos. The dead body was buried at Hazrat Nizamuddin Panj Peer Qabristan with muslim rites as he was Muslim. The PM report of deceased has been received and cause of death is as *"Shock and Hemorrhage as a result of multiples injuries sustained over the whole body consequent upon multiple blunt force surface impact. All injuries are ante mortem in nature, fresh in duration and are collectively sufficient to cause death in ordinary course of nature. The injuries are sufficient to cause death."* The deceased was identified as Husaain Lehri @ Guddu s/o Gulsan Lehri and it has been also found that deceased having a Mobile Phone Number 8447348132. CDR of said Mobile Number was obtained and it was found that the Mobile Phone was switched off on 23.03.2024 at Near Aggarwal Sweet Azad Nagar Delhi. The statements of family members of deceased were

recorded. After completion of investigation Charge sheet u/s 302/114/34 IPC was filed and the exhibits were sent to FSL Rohini for result. FSL result of CCTV footage is awaited.

3. **Ld. Addl. PP for the State has argued that** accused persons have committed the offences in question which entails grave punishment. Further, the other evidence available on record show that the accused persons were present at the spot when the offence was committed as the mobile phone location of accused persons is found at the place of incident and therefore all accused persons are liable to be charged for the alleged offences.

4. **On the other hand, Ld. Counsel for accused has argued** that accused has been falsely implicated in this case at the hands of complainant. It has been argued that apart from the oral testimony of the complainant. It has been argued that all the accused persons were working near the place of incident and for the same reasons their location is found where the dead body of the deceased was found. There is no other witness who has stated that accused has committed any offence. It has been argued that no blood stains were found matching which were lifted from the alleged place of incident with that of the deceased. It has also been argued that the case of the prosecution is based on circumstantial evidence and none of the evidence available on record connects or links the accused persons with the alleged offence

and that there are no eye witnesses of the incident. It has been prayed that accused persons is liable to be discharged from this case.

5. I have heard the arguments advanced by Ld. Addl. PP for the State, Ld. Counsel for accused persons and also have carefully gone through the record.

6. Sec. 238 to Sec. 250 CrPC, deal with the aspects of framing of charges, so far as warrant case is concerned. The relevant laws concerning the legal aspect of framing of charge, are as follows :-

7. 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.

8. 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.

9. 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.

10. 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***.

11. 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 ***State of Maharashtra Vs. Somnath & Anr., AIR 1996 1744***.

12. It has been held by higher echelon of judiciary that only a prima facie case has to be seen at the stage of charge and not whether a conviction is possible or not. In ***State of Bihar v. Ramesh Singh (1977) 4 SCC 39*** considering the scope of Sections 227 and 228 of the Code, it was held that at the stage of framing of charge it is not obligatory for the judge to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the

accused or not. At that stage, the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion, at the initial stage of framing of charge, is sufficient to frame the charge and in that event it is not open to say that there is no sufficient ground for proceeding against the accused. Thus, even if some of the witnesses have died, still the material collected during investigation has to be seen i.e. the statements u/sec. 161 of witnesses and documents collected thereupon to ascertain if a prima facie case exists. [Reliance is placed on the judgment in the case of *State of Orissa vs. Debendra Nath Padhi (2005) 1 SCC 568*].

13. 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 record by the 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.**

14. 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 had 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 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 evidence collected by police threadbare.

15. 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.

16. **In the present matter**, as per the case of prosecution, the deceased can be seen in the CCTV footage and after analysis it was found that on 25.03.2024 at about 1:26 a.m. the deceased is coming from the side of park in front of M-13 and going towards M-15, which was the godown of accused Gulam Sarwar and further upon the analysis of CCTV footage of the shop of Durga Cloth it was found that the deceased was going towards the godown of accused Gulam and his associates i.e. the other co-accused persons. At 1:26;38 a.m. accused Nabi Hussain and Arman caught and carried the deceased towards godown M-41 ODS. Further at 1:26;49 a.m. accused Ladle @ Bunty can be seen running towards M-41 ODS Lajpat Nagar. Further, upon the analysis of CDR of the accused persons the accused persons were found at the place of incident. Further, since it was the accused persons who believed that the deceased Hussain @ Guddu used to stay at the park in front of M-13 ODS, used to commit theft, was given beatings and killed by the

accused persons and thereafter was thrown in front of M-41 ODS and thereafter ran away from the spot. Further, all the other co-accused persons were abetted by accused Gulam Sarwar as he was apprehensive that it was the deceased who used to commit theft in the locality.

17. The aforesaid allegations in the complaint and after investigation, shows that the offence was committed by the accused persons having common intention. Therefore, the grounds taken by accused for seeking discharge, are not tenable and cannot be considered at the time of framing of charge.

18. **In view of the aforesaid appreciation and record of this case, prima facie, I find that offence punishable u/sec. 302/114/34 IPC, is made out against all accused persons.**

Order Dasti.

[Sheetal Chaudhary Pradhan]
ASJ-02, South-East/Saket/Delhi
27.01.2026_(m)