

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

FIR No. 691/2023
PS- Govind Puri
U/Sec. 302/307/324/341/34 IPC
State Vs. Sunny @ Lalu & Ors.

In the matter of :-

State Vs. Sunny @ Lalu & Ors.

ORDER ON THE POINT OF CHARGE
04.03.2025

1. Today, matter is fixed for arguments on the point of charge.
2. Arguments on the point of charge, heard.
3. *Briefly*, the facts of this case are that, on 08.11.2023, on receiving a PCR call vide GD No. 162-A regarding stabbing, police reached at the place of incident i.e. Tughlakabad 429 Bus Stand, RD Marg, where it was revealed that three persons were injured in the fight and they have been taken to AIIMS Trauma Centre for treatment. Thereafter, MLC of injured Azad was collected on which doctor opined that (1) stab wound over the left upper forearm lateral side 4x2 cm (2)stab wound over the left arm medial side 4x1 cm, was received. Said injured Azad was declared brought dead by the doctor. Thereafter, MLC of another injured namely Israr (brother of deceased) was received with opinion of stab

wound over the left upper abdomen. In the meantime, relative of deceased Azad namely Salman stated that they were attacked by three persons namely Sunny @ Lallu, Saurabh @ Koki @ Manish and Shivam @ Kunal. Statement of eye witness Mohd. Sadab was recorded, wherein he stated that on 08.11.2023 at about 09.45 pm, when he was standing on RD Marg at Bhoomiheen Camp, New Delhi, 3-4 boys quarreling with his brothers Azad in Machi Market. Those boys took a knife from the shop of accused Junaid and ran behind his brother Azad and Israr and attacked them. Based on said version, FIR in question was registered and investigation initiated. During investigation, on 09.11.2023, accused persons were arrested and knife used in the crime, was recovered at the instance of accused Junaid. Based on aforesaid facts, further investigation was carried on. Site Plan was prepared and CCTV footage of the place of the incident was procured. Post-mortem of the deceased was obtained in which it was opined that the cause of death was “hemorrhagic shock” due to ante-mortem stab injury sustained over left arm, caused by sharp force. The injuries (injury no. 1 & 2) as mentioned in the PMR are sufficient to cause death in ordinary course of nature.

4. Ld. Addl. PP for the State has argued that accused persons have committed the offences in question which entails grave punishment and had caused severe injuries to injured namely Mohd. Shadab and Mohd. Irshad who were the brothers of the deceased namely Azad. Further, the MLC of injured Shadab at Pandit Madan Mohan Malviya Hospital shows the nature of injury as ‘simple’ and having laceration wound on

chin and abrasion; and MLC of Mohd. Irshad shows laceration wound over scalp. Ld. Addl. PP has argued that there is ample evidence collected by the police during investigation against accused persons and prima facie case punishable u/sec. 302/307/324/341/34 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 persons.

5. On the other hand, Ld. Counsel Sh. Rajesh Kumar Singh for **accused Junaid**, has argued that in the present matter, accused Junaid has been falsely implicated and that he had not committed any offence in the present matter. Further, that accused Junaid was the person who had intervened between other co-accused persons, injured persons and the deceased to stop the quarrel which is also evident from the CCTV footage of the present matter. It has been argued that none of the witnesses/ injured persons/ eye witnesses have stated that accused Junaid had committed the offence. It has also been argued that statement of Mohd. Shadab also states that on 08.11.2023 at around 9.45 pm, when he went to Main Road, R.D. Marg, Bhoomihen Camp, Govindpuri, he found that 3-4 boys were having a quarrel with his deceased brother Azad and at that time, the aforesaid boys had picked up a knife from the meat shop of accused Junaid who was running and thereafter had stabbed deceased Azad and his brother Israr and also caused injury to Mohd. Shadab due to which he was injured on his chin. Further, aforesaid witness has specifically named accused Shivam @ Kunal, Sunny @ Lalu, Saurav @ Manish @ Koki who have committed

the offence by using the knife taken from the meat shop of accused Junaid. Further, it has been argued that the aforesaid three accused had stabbed his brother Irshad @ Israr and deceased Azad by causing stab injuries. Further, that somebody made a call at 100 number and police reached the spot and had taken deceased Azad and his brother Irshad @ Israr to AIIMS Trauma Centre and he after taking auto went to Madan Mohan Malviya Hospital, Malviya Nagar, for treatment. It has further been argued that CCTV footage which was examined by the IO also shows that accused Junaid had not participated in the commission of offence and infact it was accused Junaid who had taken both the injured persons and deceased namely Irshad @ Israr and Azad to AIIMS Trauma Centre and the same is evident from the fact that accused Junaid was arrested and the place of arrest is shown in the arrest memo at PS Govindpuri. It has also been argued that injured Irshad @ Israr has also stated that on 08.11.2023, accused Sunny @ Nepali had attacked them by using a knife and no specific role is attributed to accused Junaid and therefore, he is liable to be discharged from this case.

6. Ld. LAC Sh. Gaurav Kant Sharma, for **accused Saurav @ Koki**, has argued that accused has been falsely implicated in the present matter and witness Irshad @ Israr has not taken the name of accused Saurav @ Koki in his statement recorded u/sec. 161 CrPC which is contradictory to the statement of injured Shadab and therefore, the accused Saurav @ Koki is liable to be discharged.

7. Further, Sh. Saurav Mishra, Counsel for accused **Sunny @ Lalu and Shivam @ Kunal**, has conceded the charged against aforesaid accused persons.

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

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

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

11. 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.

12. 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.

13. 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.

14. 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*.

15. 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*.

16. 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.**

17. 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.

18. 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.

19. In the present matter, it has been specifically stated by witness injured Shadab that accused Sunny @ Lalu, Shivam @ Kunal and Saurav @ Koki had taken knife from the meat shop of accused Junaid and thereafter caused stab injuries to deceased Azad and also to injured Shadab and Israr @ Irshad in the present matter. The aforesaid fact and the presence of the accused persons at the spot is substantiated from the CCTV footage obtained in the present matter by the IO. Injured Israr @ Irshad has stated that along-with other accused persons, accused Junaid was also present at the spot. There are specific and clear allegations against all the accused persons. The witnesses and also the injured have

clearly mentioned the manner in which the accused persons had committed the offence. As per the statement of witnesses, victim and contents of charge sheet, accused namely Sunny @ Lalu, Shivam @ Kunal, Junaid, Sourav @ Koki, were actively involved in the commission of crime of the present case.

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

21. As per prosecution, there are ample evidence against the accused persons 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.

22. 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 punishable u/sec. 302/307/324/341/34 IPC against all accused persons.

23. In view of the aforesaid appreciation and conclusion, I hereby conclude that prima-facie charge punishable u/sec. 302/307/324/341/34 IPC, is made out against all accused persons.

Now, put up for framing of charge on 30.04.2025.

Superintendent Tihar Jail is directed to physically produce both accused Sunny @ Lalu and Sourav @ Koki, on the next date of hearing. Let, information in this regard be sent to Jail Superintendent, concerned, for information and compliance.

Order Dasti.

[Sheetal Chaudhary Pradhan]
ASJ-02, South-East/Saket/Delhi
04.03.2025