

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, IRINJALAKUDA**  
**Present:- Sri.Vinod Kumar N., Additional Sessions Judge**  
**Monday, 18<sup>th</sup> August, 2025/ 27<sup>th</sup> Shravana, 1947**

**Crl.MP.120/2023 in SC. No.132/2023**

**Petitioner/ Accused:-**

Manoj Borah, aged 30 years, S/o. Thankeswar Borah,  
Sollengiguri Village, Goupur Post, Sonitpiur District, Assam State,  
Pin – 784 168.

By Adv. P Somasundaram

**Respondent/Complainant:-**

State of Kerala Represented by Station House Officer, Mala  
Police Station, Through Public Prosecutor.

By Adv. Addl. Public Prosecutor

This petition has come up before me for hearing on this day the court passed the following :-

**ORDER**

This petition is filed by the counsel for the petitioner/accused under section 227 of Cr.P.C for discharging the petitioner/accused.

2. According to the counsel for the petitioner, the police registered the above crime under section 302 and 201 of IPC on the allegation that the accused who is a migrant labourer, on 09/05/2016 at 10.30 pm, attacked his co-worker named Ummar @ Umanand Nath with a knife and an axe and poured kerosene and petrol over the body of Ummar @ Umanand Nath and set ablaze him and thus committed the murder of his co-worker. The petitioner was arrested on 06/10/2022 from Supara Mizra and was produced before the Chief Judicial Magistrate, Kamrup, Amingaon Court for transit warrant and thereafter he was produced before the Judicial First Class Magistrate, Chalakudy and he was remanded to judicial custody. After completion of investigation, the police filed final report. According to the counsel for the petitioner, the petitioner/accused

has not committed any offence as alleged by the prosecution. The petitioner had neither indulged directly or indirectly in the above crime and no prima face case is made out against the accused. There is no incriminating materials against the accused. There is no direct or circumstantial evidence against the petitioner/accused and there is no reasonable grounds to believe that the petitioner had committed the offence as alleged by the prosecution. The petitioner has no criminal antecedents and nothing has been recovered from the petitioner and hence, the petitioner may be discharged from the offence punishable under section 302 and 201 of IPC.

3. Heard the counsel for the petitioner/accused and the Additional Public Prosecutor.

4. The prosecution case is that while the accused and his co-worker named Ummar @ Umanand Nath were residing together in the outhouse No.IX/250 owned by CW7 situated in Puthenchira panchayat, on 09/05/2016 at 10.30 pm, the accused hit Ummar @ Umanand Nath with an axe on the back of the head of Ummar and inflicted injuries with a knife and then dragged him to the nearby land and stabbed repeatedly on the neck and face of Ummar @ Umanand Nath with a knife and then the accused brought bed and clothes from the outhouse and placed on the body of Ummar @ Umanand Nath and then poured kerosene and petrol on the body of Umanand Nath and set ablaze him alive and thereby committed murder intentionally causing the death of Ummar @ Umanand Nath, and then the accused placed his 'Elas' and dresses near the body of Umanand Nath so as to make others believe that the accused himself died in the incident and with an intention of screening the accused from legal punishment and thereby the accused committed the offence under section 302 and 201 of IPC.

5. The prosecution cited 55 witnesses as CW1 to CW55 and produced several documents viz., chemical analysis report, postmortem certificate, wound certificate, scene mahazar, possession certificates, registration particulars etc. The prosecution records would show that there are sufficient materials to presume that the accused had

committed the offence under section 302 and 201 of IPC. The postmortem certificate would show that the death was caused due to blunt injury sustained to head and injury sustained to neck and burns. The FSL reports were received. The material objects viz, axe, knife, *Elas* and dresses were seized.

6. The Apex Court in ***Union of India v. Prafulla Kumar Samal*** ( AIR 1979 SC 366 ) has held in *para 7* that the words 'not sufficient ground for proceeding against the accused' clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the Court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of S.227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the Court which *ex facie* disclose that there are suspicious circumstances against the accused so as to frame a charge against him. In ***Central Bureau of Investigation v. K. Narayana Rao*** (2012 KHC 4527), the Apex Court held that *it is also settled law that while exercising jurisdiction under S.227 of the Code, the Magistrate should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*

7. It is relevant to point out at this stage that the Criminal Court recording the plea of guilt has necessarily to peruse the final report submitted by the police and prima facie hold that there is a prima facie material to frame a charge against the accused. If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused

has committed the offence. At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge, the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. So at the stage of section 227 and 228 of Cr.P.C, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom are taken at their face value for disclosing of the existence of all the ingredients constituting the alleged offence.

8. In the above circumstances, there is no merit in the contention of the counsel for the petitioner/accused that the accused is entitled to be discharged of all the offences. In this case there are sufficient grounds to presume that the petitioner herein/accused committed the offence under section 302 and 201 of IPC.

In the result, the petition is dismissed.

(Dictated to the Confidential Asst., transcribed and typed by her corrected and pronounced by me in open court, this the 18<sup>th</sup> day of August, 2025).

Sd/-  
Vinod Kumar N.  
Additional Sessions Judge.  
Irinjalakuda

Appendix – Nil

Id/-  
Vinod Kumar N.  
Additional Sessions Judge.  
Irinjalakuda

*/True copy/*

By Order

Sheristadar