

IN THE COURT OF HARVINDER SINGH,
ADDITIONAL SESSIONS JUDGE (FTC), SHAHDARA
DISTRICT, KARKARDOOMA COURTS, DELHI.

SC No.131/2016
FIR No.667/2015
PS – Nand Nagri
State Vs. Anil & Ors.

ORDER ON CHARGE

09.01.2026

Present : Sh. Yogender Singh, Ld. Substitute Additional PP for the State.

Sh. Chaman Kumar and Sh. Pradeep Kumar, Ld. Counsels for complainant side with Smt. Sunita, Mother of complainant.

Sh. Suraj Prakash Sharma, Ld. Counsel for the accused persons namely Anil, Kavita, Jony, Babita, Bala and Rekha (present on bail).

Sh. Arun Pal, Ld. Counsel for the accused Vikas @ Mogli (present on bail).

Sh. Dev Pratap Singh Raghav and Sh. Aditya Khari, Ld. Counsels for the accused persons Sanjay Kumar, Ankush @ Ganja and Maya (present on bail).

(1) Today, matter is fixed for orders/consideration on charge qua accused Babita, Bala, Rekha, Kavita and Maya in terms of orders of ***Hon'ble High Court of Delhi*** dated 04.09.2023 in Criminal Revision Petition 267/2018 and Criminal Miscellaneous Application 5655/2018 vide which ***Hon'ble High Court of Delhi*** set-aside the order dated 06.09.2017 of this Court to the extent of discharge of accused persons Babita, Bala, Rekha, Kavita and Maya and further directed this Court to

reconsider/pass fresh order qua them on point of charge after hearing both side.

(2) Submissions of both side have already been heard.

(3) In gist, the submissions of complainant/prosecution side are that accused persons Babita, Bala, Rekha, Kavita and Maya are also liable to be charged for offence punishable under Section 307 of The Indian Penal Code, 1860 (*hereinafter referred to as IPC*) read with Section 149 IPC and for offence punishable under Section 147 IPC in view of specific allegations of complainant in his statement upon which the FIR in question was registered as they exhorted other accused persons to kill the complainant and further gave fist and kick blows to the complainant.

(4) Per contra, the contentions of the said accused persons are that the present case is counter-blast and have been got registered against them and their family-members only to put pressure upon them qua a case which is pending against the grandfather and uncles of the complainant regarding murder of Satpal @ Kaale. No common intention or common object could be inferred on the part of accused persons Babita, Bala, Rekha, Kavita and Maya in this matter. They have been unnecessarily named to implicate whole of the family-members to exert pressure upon them qua case of murder of Satpal @ Kaale.

(5) Submissions of both side considered.

(6) In the matter of “***Union of India, Appellant Vs. Prafulla Kumar Samal and Another***” AIR 1979 Supreme Court 366 (1) ***Hon'ble Supreme Court of India*** has observed : -

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge : -

(i) that the judge while considering the question of framing the charges under Section 227 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;

(ii) 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.

(iii) the test of 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.

(iv) that in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced Court cannot act merely as a Post-Office or a mount-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.”

(7) In the matter of “***Dilawar Balu Kurane Vs. State of Maharashtra***” (2002) 2 Supreme Court Cases 135 and in the matter of “***Sajjan Kumar Vs. Central Bureau of Investigation***” (2010) 9 Supreme Court Cases 368, ***Hon'ble Supreme Court of India*** has reiterated above-said case law.

(8) In the matter of “***State Vs. Arun Kumar and Another***” (2015) 2 Supreme Court Cases 417 ***Hon'ble Supreme Court of India*** observed : -

“9. This court then went to cull out principles as regards scope of Sections 227 and 228 of I.P.C., which in our view broadly apply to Sections 238 and 239 of the Code as well. It was observed thus in para 21 : (Sajjan Kumar Case, SCC pp. 376-77)

“Exercise of jurisdiction under Sections 227 and 228 Cr.PC

21. On Consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge :-

(i) The Judge while considering the question of framing the charges under Section 227 Cr.PC 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. The test to determine prima facie case would depend upon the facts of each case.

(ii) 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.

(iii) The court cannot act merely as a post office or a mouthpiece 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, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can be proved beyond reasonable doubt that the accused has committed the offence.

(v) 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.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of the them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(9) In the matter of “***Asim Shafiff Vs. National Investigation Agency***” (2019) 7 SCC 148, ***Hon'ble Supreme Court of India*** observed as under : -

“19. Taking note of the exposition of law on the subject laid down by this Court, it is settled that the Judge while considering the question of framing charge under Section 227 Cr.P.C. in sessions cases (which is akin to Section 239 Cr.P.C. pertaining to warrant cases) 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; where the material placed before the Court discloses grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing the charge; by and large if two views are possible and one of them giving rise to suspicion only, as distinguished from grave suspicion against the accused, 3 2018(13) SCC 455 4 2019(6) SCALE 794 the trial Judge will be justified in discharging him. It is thus clear that while examining the discharge application filed under Section 227 Cr.P.C., it is expected from the trial Judge to exercise its judicial mind to determine as to whether a case for trial has been made out or not. It is true that in such proceedings, the Court is not supposed to hold a mini trial by marshalling the evidence on record.”

(10) In view of above-said guiding lamp post judgment of ***Hon'ble Supreme Court of India*** on the matter of consideration on charge, it is clear that at the time of consideration on charge, Court has to see whether there is prima-facie case against the accused person(s) for a particular offence or not and even where there is grave suspicion of commission of offence qua which there is no reasonable explanation, the Court is well within its right to frame charge against the person(s). At the stage of framing of charge, the Court need not delve into realm of whether the case is proven beyond reasonable doubt as that determination comes at a later stage i.e. after conclusion of the trial. A strict standard of

proof is not required while evaluating the material on record for purpose of framing of charge.

(11) In the present matter, there are specific allegations of the complainant that the accused persons Babita, Bala, Rekha, Kavita and Maya came after hearing noise and exhorted that he should not be left alive. There are also specific allegations against them that they also gave beatings to the complainant with fist and kick blows by joining other accused persons. It is however noted that as per statement of complainant the accused persons Babita, Bala, Rekha, Kavita and Maya joined other accused persons after other accused persons have given blows/injuries to the complainant with knife, iron-rod and stones etc. There are no allegations of the complainant that he was given injuries with any weapon after joining of accused persons Babita, Bala, Rekha, Kavita and Maya. The statements under Section 161 of The Code of Criminal Procedure, 1973 (*hereinafter referred to as Cr. P.C.*) of witnesses Pappe and Shubham are regarding abuses hurled by accused persons Babita, Bala, Rekha, Kavita & Maya and other co-accused persons when they came in their balcony. They have also not stated to have seen the accused persons Babita, Bala, Rekha, Kavita and Maya inflicting any type of injuries/hurt to the complainant with other accused persons. Hence, in the opinion of this Court, considering the sequence of events and the allegations of only being given beatings by fist and kick blows by them along-with other accused persons after joining them, they need to be charged only for offences punishable under Section 143, 147 and 323 IPC read with Section 149 IPC. Though, the order of framing of charge dated 06.09.2017 against other accused persons has been upheld by *Hon'ble High Court of Delhi* vide above-

mentioned order, however, in the opinion of this Court, the same also need modification as far as charge under Section 307 IPC read with Section 34 IPC framed against accused Anil, Jony, Sanjay Kumar, Vikas @ Mogli and Ankush @ Ganja is concerned, since, they also need to be charged with offences punishable under Section 143, 147 IPC and further need to be charged for offence punishable under Section 307 IPC read with Section 149 IPC instead of Section 34 IPC as they were five in number with common object to kill the complainant at time of commission of said offence. Hence, ordered accordingly.

(12) Put up for framing of charge against the accused persons Babita, Bala, Rekha, Kavita and Maya and for modification of order on charge against the other accused persons Anil, Jony, Sanjay Kumar, Vikas @ Mogli and Ankush @ Ganja on 13.03.2026.

**Announced in the open Court
on 09.01.2026.**

(HARVINDER SINGH)
ASJ (FTC)/Shahdara,
KKD/Delhi/09.01.2026