

SC No. 136/2026
State Vs. Shabnam and anr.
FIR No. 589/2022
P.S. Seema Puri
u/s 328/379/411/34 IPC

15.07.2026

ORDER ON CHARGE

Present: Sh. Murari Singh, Ld. Addl. PP for State.

Both accused with proxy counsel Sh. Shahid Ali.

1. Arguments already heard on the point of charge.
2. The FIR of this case was registered on the complaint of victim Hemlata, based on her statement dated 17.07.2022. She alleged that on 06.06.2022, following a quarrel with her husband, she left her residence at Loni Road, Shahdara, Delhi around 6:00 p.m. At approximately 9:00 p.m., she reached Seema Puri Bus Depot, where she encountered an unknown woman who engaged her in conversation and offered her food. At the woman's suggestion, they ate at a nearby dhaba. Within 15-20 minutes, Hemlata began losing consciousness, though she remained partially aware and observed the woman taking her to a house, where the woman removed her two gold bangles weighing 3 tolas and a pendant inscribed with 'OM'.
3. On 07.06.2022, the woman placed Hemlata on a bus from Anand Vihar to Katra. Hemlata regained full consciousness at Pathankot, where she realized that the woman had administered a poisonous substance to her

before stealing her jewellery. Hemlata then returned home and, along with her husband, began searching for the woman.

4. On 17.07.2022, Hemlata identified the woman at the DTC Depot, where her name was revealed as Shabnam (accused). Hemlata immediately lodged a complaint with the police, leading to the registration of the present FIR under Sections 328/379 IPC on the same day. The complainant was medically examined at GTB Hospital.

5. During the course of investigation, accused Shabnam was arrested on 02.09.2022. Her disclosure statement was recorded, wherein she admitted that she had sold the 'OM' pendant to an unknown person for Rs. 700/- and had obtained a loan from Muthoot Finance by mortgaging the complainant's two gold bangles. Pursuant to her statement, the bangles were recovered from Muthoot Finance. As per the records of Muthoot Finance, it was revealed that one bangle had been mortgaged by accused Shabnam and the other by co-accused Sahil. Consequently, Section 411 IPC was added to the present FIR, and accused Sahil was arrested on 02.10.2022. Statements of relevant witnesses were thereafter recorded.

6. After completion of investigation, chargesheet was filed in the concerned court of Ld. MM for the offence under Section 328/379/411/34 IPC. After compliance of Section 207 Cr. PC, the case was committed to Sessions Court as the offence under Section 328 IPC is Sessions Triable.

7. The allegations against the accused persons are that, by entering into a criminal conspiracy, they administered a poisonous substance to the complainant Hemlata and thereafter committed theft of her two gold bangles and one 'OM' pendant. Subsequently, the stolen bangles were discovered to have been mortgaged by the accused with Muthoot Finance and recovered at their instance. On these allegations, chargesheet against both the accused is filed for the offences u/s 328/379/411/34 IPC.
8. However, upon examination of the record, it is found that the material available is not sufficient to frame charges under Section 328 IPC against the accused persons since except a bare statement of complainant, no material in the form of medical or scientific evidence is on record to support the allegations for the offence u/s 328 IPC.
9. Accused can be held guilt under section 328 IPC, firstly, on proving by the prosecution, that any poison or any stupefying, intoxicating or unwholesome drug, was administered to the victim by the accused. Secondly, the said act was done with an intent to commit an offence. If these ingredients are established only then, the person can be held liable for the offence punishable under section 328 of IPC.
10. In the present case, as per the chargesheet, it is alleged that on 06.06.2022 the accused persons administered a poisonous substance by mixing it in the food consumed by the complainant Hemlata, as a result of which she became unconscious. However, the incident was reported by the

complainant only after a considerable delay of approximately one and a half months, on 17.07.2022, when her Medico-Legal Case (MLC) was conducted. Since the MLC was prepared after such a long lapse of time, the concerned doctor was unable to give any opinion regarding the administration of any poisonous substance to the complainant. Furthermore, due to the delay in reporting, no samples were preserved or sent to the Forensic Science Laboratory (FSL) for examination.

11. In **Sanjay Singh and Another Vs. State, 2008 VII AD (Delhi) 151**, the Hon'ble High Court of Delhi has held that the bare statement of victim would not be sufficient for ascertaining the commission of offence under Section 328 IPC and apart from her statement, some forensic or medical evidence should also be on record to attract the said provision. *The relevant portion of the judgment is reproduced as under:-*

"6. The essential element of section 328 IPC is that the victim should be administered "poison or any stupefying, intoxicating or unwholesome drug, or other thing." The forensic examination of the stomach wash in order to determine the substance that administered was poison is, therefore, imperative for ascertaining the commission of the offence under section 328 IPC. The opinion of the victim who is rendered unconscious after taking the substance may not be stated final as to whether the drug administered was either "poison or any stupefying, intoxicating or unwholesome drug."

12. Thus, it is settled law that in order to record conviction u/s 328 IPC, there must be some evidence of poison brought on record in addition to the oral version of the victim.

13. In the instant case, the delay in lodging the complaint and in conducting the medical examination has resulted the absence of crucial medical and forensic evidence. In the absence of timely medical corroboration or scientific analysis, the prosecution case lacks material proof to substantiate the allegation of administration of a poisonous substance under Section 328 IPC. Consequently, the evidentiary foundation is insufficient to sustain a charge under Section 328 IPC against the accused persons. Accordingly, both the accused are discharged for the offence under Section 328/34 IPC. The offences under Section 379/411/34 IPC are triable by Ld. JMFC. Hence, the present case file be sent to Ld. CJM (Shahdara) for appropriate orders for 17.07.2026 at 2.00 pm.

(Charu Aggarwal)
ASJ-02/E-Court/Shahdara
KKD/Delhi/15.07.2026