

GR Case No- 320 of 2024
CIS No. 369 of 2025
CNR-WBPU060006012025

Order Dated: 04.08.2026

Today is fixed for passing order.

Parties have filed their respective attendance.

The main argument of the accused persons is that the complainant was not present before the Court on 20.05.2024. Therefore, according to them, the prosecution case is false from the beginning. In support of this argument, they have relied upon the order sheet of Complaint Case No. 89 of 2023, where it is recorded that the complainant was "absent by petition". This Court is unable to accept this argument at this stage. The words "absent by petition" only mean that a petition was filed praying for exemption from personal appearance and the Court considered the same. Such an entry does not prove that the complainant was not present at Raghunathpur on that day. The complainant has stated that he came to Raghunathpur on the previous day and the alleged incident took place thereafter. Therefore, from the materials now available, two views are possible. It is well settled that if the materials create a strong suspicion against the accused and two views are possible, the case should proceed to trial. In this regard, reference may be made to *State of Rajasthan v. Kashi Ram*, (2006) 12 SCC 254. The effect of the court diary entry and its impact on the truthfulness of the complainant can be decided only after evidence is recorded during trial and not at the stage of discharge.

The accused persons have also argued that the statements of the witnesses are hearsay and therefore no case is made out. This argument is also not acceptable at this stage. The complainant himself is the victim and claims to be an eyewitness to the occurrence. His statement forms part of the prosecution case. Even if some other witnesses are not eyewitnesses, that by itself does not destroy the prosecution case. The value of their evidence can be decided only after they are examined and cross-examined during trial. At the stage of discharge, the Court has only to see whether there is a prima facie case and not whether the evidence is sufficient for conviction.

The accused persons have further argued that the injuries mentioned in the medical papers do not support the prosecution case. This argument is also not acceptable. The charge sheet has been filed under Sections 341, 323 and 506 read with Section 34 of the IPC. For an offence under Section 323 IPC, simple hurt is enough. The medical papers show an abrasion and complaint of pain. These materials, at this stage, support the allegation of hurt. The prosecution has not alleged any offence of grievous hurt or attempt to murder. Therefore, whether the injuries are consistent with the prosecution story is a matter to be decided after trial and cannot be a ground for discharge.

The accused persons have also relied upon certain Army records, alleged non-reporting of the incident to Army authorities, RTI replies, matrimonial disputes and other defence documents. However, it is well settled by the Constitution Bench of the Hon'ble Supreme Court in *State of Orissa v. Debendra Nath Padhi*, (2005) 1 SCC 568, that while considering discharge or framing of charge, the Court can look only into the materials collected by the prosecution. The Court cannot examine defence documents at this stage to decide whether the accused are innocent. Therefore, the defence materials

cannot be considered now. The accused persons will be free to prove those documents during trial in accordance with law.

The accused persons have also relied upon the decisions in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 and *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667. In the opinion of this Court, these decisions do not help the accused. The judgment in *Bhajan Lal* relates to the power of the High Court to quash criminal proceedings and not to an application for discharge under Section 239 Cr.P.C. Similarly, *Preeti Gupta* was a case relating to matrimonial disputes and cannot be applied to the facts of the present case, where the allegations are under Sections 341, 323 and 506 of the IPC.

This Court further finds that the materials collected during investigation show a prima facie connection between the accused persons and the alleged incident. According to the prosecution, before the incident the accused persons had threatened the complainant over telephone and asked him to withdraw the pending case. Soon thereafter, the complainant was allegedly assaulted by unknown persons, and during the assault the same demand for withdrawal of the case was repeated. At this stage, these materials are sufficient to raise a prima facie case of common intention under Section 34 IPC. Whether this allegation is ultimately proved or not can be decided only after the evidence is recorded during trial. At this stage, it cannot be said that the accusation is without any basis.

This Court is aware that the defence has pointed out some weaknesses in the prosecution case, such as the court diary entry, absence of independent witnesses, simple injuries and the alleged failure to report the incident to the Army authorities. These points may become important during trial and the accused persons may rely upon them while arguing for acquittal. However, while deciding an application for discharge, the Court has only to see whether the accusation is groundless. From the materials collected during investigation, this Court is unable to hold that the accusation is groundless. On the contrary, the materials disclose sufficient grounds for presuming that the accused persons may have committed the offences alleged against them.

Accordingly, this Court finds no merit in the petition for discharge. The petition under Section 239 Cr.P.C. (corresponding to Section 262 BNSS) is rejected. Let charge be framed against accused Neeru Bhoj, Bhagwat Singh Bhoj, Deep Prakash Bhoj and Munni Bhoj under Sections 341/323/506/34 of the IPC.

Fix 07.09.2026 for consideration/framing of charge/Plea.

D/C by me

JM1

Judicial Magistrate 1st Court
Raghunathpur, Purulia