



2026:CGHC:4280



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 670 of 2025

1 - Santosh Mishra S/o Late Girdharilal Mishra Aged About 62 Years R/o Mahalpara Saraipali, Police Station Saraipali, District- Mahasamund Chhattisgarh.

2 - Tapaswini Mishra W/o Shri Santosh Mishra Aged About 58 Years R/o Mahalpara Saraipali, Police Station Saraipali, District- Mahasamund Chhattisgarh.

3 - Amit Mishra S/o Santosh Mishra Aged About 30 Years R/o Mahalpara Saraipali, Police Station Saraipali, District- Mahasamund Chhattisgarh.

4 - Smt. Alka Samantrai @ Ritu W/o Prashant Samantrai Aged About 29 Years R/o Mova Anant Vihar, District - Raipur Chhattisgarh

... Petitioners

versus

1 - State Of Chhattisgarh Through - Station House Officer, Police Station- Saraipali, District - Mahasamund Chhattisgarh

2 - Alka Mishra @ Gunjan Mishra W/o Amit Mishra Aged About 23 Years R/o Village - Salhetarai Police Station Basna, District Mahasamund Chhattisgarh.

... Respondents

(Cause title taken from Case Information System)

For Petitioners : Mr. Gurudev I. Sharan, Advocate

For Respondent No.1/State : Ms. Isha Jajodia, Panel Lawyer

Hon'ble Shri Justice Ravindra Kumar Agrawal
Order on Board

23/01/2026

1. The present criminal revision filed by the petitioners under section 438 read with section 442 of the Bhartiya Nagrik Suraksha Sanhita, 2023,



against the impugned order dated 26.04.2025 (wrongly mentioned as 25.04.2025), passed by learned 2nd Additional Sessions Judge, Saraipali, District Mahasamund, in Sessions Case No. 01 of 2024, whereby the charges under section 498-A, 313, 34 of IPC have been framed against the petitioners.

2. The facts of the case are that, the petitioners are accused persons in the Sessions Case No. 1 of 2024, which was arising out of the Crime No. 81 of 2023, registered at police station Saraipali, District Mahasamund for the offence under sections 498-A, 313 and 34 of IPC on the complaint made by the respondent No.2/complainant. It is alleged in the FIR that, she had married with petitioner No.3 on 20.01.2022. After sometime of marriage, the petitioners/accused persons started harassing her for demand of dowry. Sufficient dowry including a car, domestic article and ornaments were given to them at the time of marriage, despite that they demanded more dowry. On 14.02.2022, Rs. 1,50,000/- was also given to them through cheque. On 30.05.2022, they harassed her by raising quarrel. In the meantime, she conceived pregnancy, but she was forced to get it aborted and on 12.06.2022, they administered certain pills and injected medicine on the pretext of treatment by a male nurse of Saraipali and get her fetus aborted and left her at her parents house and had not taken back. The FIR has been registered. Statement of the witnesses have been recorded. The documents with respect to her treatment have also been seized by the police and after completion of investigation, charge sheet was filed before the Judicial Magistrate First Class, Saraipali. The case was committed to the learned trial Court for its trial. The



learned trial Court has framed charge against the petitioners for the offence under sections 498-A, 313, 34 of IPC on 26.04.2025 (24.04.2025), which is under challenge in the present criminal revision.

3. Learned counsel for the petitioners would submit that, there is no prima facie evidence against the petitioners that, they caused miscarriage or took active participation in the alleged offence. There is no report or medical evidence that the miscarriage was caused due to administering pills given by the petitioners or they forced her to get it aborted. In the MLC report, the history made by the complainant is mentioned, but her medical examination has not been mentioned. The report with respect to miscarriage has been lodged after a long delay. He would also submit that, there is no sufficient material available on record, which prima facie shows the required ingredients of the offence of section 313 of IPC. There is no test report or scientific evidence to show that she had actually conceived pregnancy, which was caused miscarriage by the act of the petitioners/accused persons. Further, except the oral statement of the family members of the complainant, there is no document with respect to any complaint made by her to the community or police station. General and omnibus allegations have been leveled against the accused persons by the complainant, which is not sufficient to frame charges, and therefore, the petition may be allowed and the petitioners may be discharged from the alleged offences. In support of their case, they relied upon the the order dated 20.07.2023, passed by Delhi High Court in Criminal Revision Petition No. 754 of 2023 (**Ankita Jain v. The State and others**).



4. On the other hand, learned counsel appearing for the State opposes the submissions made by learned counsel for the petitioners and submitted that, there are sufficient evidence against the petitioners to frame charges against them. The statement of the complainant as well as other witnesses clearly demonstrated by the act of the petitioners, they forced the complainant to get her fetus aborted, administered pills and injected medicines, by which she suffered by miscarriage. There are sufficient ingredients of the offence of causing miscarriage without the consent of the complainant. He would further submit that, there are documentary evidence of medical prescription of Community Health Centre, Saraipali, which shows that she suffered abortion on 12.06.2022 and taken treatment from the hospital. From the FIR as well as statements of the witnesses, it prima facie appears that the complainant was being harassed by the petitioners for demand of dowry and they committed cruelty with her. He would also submit that, at the time of framing of charge, on the prima facie evidence are to be considered and the court is not required to examine the evidence meticulously, therefore, the learned trial Court has rightly framed the charges and there is no infirmity or illegality in framing charge and the revision is liable to be dismissed.
5. I have heard learned counsel for the parties and perused the material annexed with the petition.
6. The respondent No.2/complainant is the wife of the petitioner No.3/Amit Mishra. Their marriage have been solemnized on 20.01.2022 and it is alleged that, after few days of marriage the



petitioners started harassing her for demand of more dowry. From the statement of the complainant, it transpires that there are allegations of her harassing for demand of dowry. On 14.02.2022, Rs. 1,50,000/- was given to them through cheque. He also alleged that the cash amount kept in her purse was also taken by her father-in-law. Her mother-in-law also tortured her by saying that she brought less dowry. All of them made sarcastic comments upon her. Her sister-in-law also taunted her that she is less educated and brought less articles. Various instances of harassment have been alleged by the complainant. She also alleged that she conceived pregnancy, which confirms on her pathological test. On 31.05.2022, they thrown her out from her matrimonial house and sent back to her parents house. The petitioners took her back to her matrimonial house on 12.06.2022 and when she reached there, her mother-in-law called the male nurse at Saraipali and injected some medicines and gagged her mouth by piece of cloth. She suffered by heavy abdominal pain and ultimately suffered by miscarriage on 13.06.2022, thereafter, they again left her to her parents house. The father and mother of the complainant and their other relatives have also stated about harassment and miscarriage of the complainant.

7. From perusal of the final report (Annexure A/3), it transpires that in the list of documents annexed with the charge sheet, at serial No. 9, the document of the copy of Bal Suraksha Card and report is mentioned, but said document has not been annexed with the present petition. From perusal of the case diary, which has been called by this court vide order dated 24.07.2025, it transpires that the copy of Bal



Suraksha Card is annexed along with the report and prescription of Community Health Centre, Saraipali, which clearly demonstrate that the complainant suffered abortion on 12.06.2022 by some private practitioner. When the medical evidence available in the charge sheet and in her MLC, she disclosed about her medical history to the doctor, which has been mentioned in her MLC report and also from the allegation leveled by the witnesses in their statements, it cannot be said that there is no prima facie evidence against the petitioners for framing of charge.

8. Section 313 of the IPC defines causing miscarriage without woman's consent. In the present case, the complainant was forced to miscarriage of her fetus and injected certain medicine without her consent and thereby their acts are prima facie satisfies the ingredients of section 313 of the IPC.
9. The law is well settled with respect to the consideration of material available in the charge sheet at the time of framing of charge.
10. At the stage of framing of charge, the Hon'ble Supreme Court has laid down the principles in the case of "**State of M.P. vs. Deepak**" 2019 (13) SCC 62, wherein the Hon'ble Supreme Court has held that at the stage of framing of charge, the court has to consider the material only with a view to find out if there is a ground for presuming that the accused had committed the offence. It is also held that the court is required to evaluate the material and documents on record with a view to finding out if facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged



offence and at the stage of framing charge, the court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded is likely to be convicted or not. In the matter of Deepak (Supra), in its judgment, the Hon'ble Supreme Court has held that:-

"16. It was also noted that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for "presuming" that the accused had committed the offence: (Chitreth Kumar Chopra case, SCC p. 613, para 25)

"25. It is trite that at the stage of framing of charge, the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for "presuming" that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction"

17. A two-Judge Bench of this Court, in Rajbir Singh v. State of U.P noted that in accordance with Section 227, the High Court must ascertain



whether there is "sufficient ground for proceeding against the accused of there is ground for "presuming that the offence has been committed. G.P. Mathur. J. held thus: (SCC p. 56, paras 9-10)

"9. In *Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia* the Court while examining the scope of Section 227 held as under:

'14. Section 227 itself contains enough guidelines as to the scope of inquiry for the purpose of discharging an accused. It provides that "the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused The "ground" in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate inquiry in sifting and weighing the material. Nor is it necessary to delve deep into various aspects. All that the court has to consider is whether the evadentiary material on record, if generally accepted, would reasonably connect the accused with the crime.

10. The High Court, did not at all apply the relevant text, namely whether there is sufficient ground for proceeding against the accused or whether there is ground for



presuming that the accused has committed as offence. If the answer is in the affirmative an order of discharge cannot be passed and the accused has to face the trial. The High Court after merely observing that 'as the firing was aimed at the other persons and accidentally the deceased Pooja Balmiki was passing through that way and she was hit and further observing that the applicant neither intended to kill the deceased nor was she aimed at because of the reason that she was a Scheduled Caste set aside the order by which the charges had been framed against Respondent 2. There can be no manner of doubt that the provisions of Section 301 IPC have been completely ignored and the relevant criteria for judging the validity of the order passed by the learned Special Judge directing framing of charges have not been applied. The impugned order is, therefore, clearly erroneous in law and is liable to be set aside." (emphasis supplied)

11. In the matter of “**Manjit Singh Viridi vs. Hussain Mohammad Shattaf**” 2023 (7) SCC 633, the Hon’ble Supreme Court has held in para 12 of its judgment that:-

“12. The law on the point has been summarised in a recent judgment of this Court in *State of Rajasthan v. Ashok Kumar Kashyap*³ Relevant paras are extracted below: (SCC pp. 197-98, para 11)

"11....11.1. In *P. Vijayan v. State of Kerala*, this Court had an occasion to consider



Section 227 CrPC. What is required to be considered at the time of framing of the charge and/or considering the discharge application has been considered elaborately in the said decision. It is observed and held that at the stage of Section 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. It is observed that in other words, the sufficiency of grounds 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. It is further observed that if the Judge comes to a conclusion that there is sufficient ground to proceed. he will frame a charge under Section 228 CrPC, if not, he will discharge the accused. It is further observed that while exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the court to enter s the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

11.2 to the recent decision of this Court in State of Karnataka v. MR. Memah, one of us (D. Y. Chandrachud, J) speaking for the Bench has observed and held in para 25 as under: (SCC p. 526)



'25. The High Court ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 219 CPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In *State of N. v. N. Suresh Rajan*, advertent to the earlier decisions on the subject, this Court held: (*N. Suresh Rajan case*, SCC 721-22, para 20)

"29..... At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether



a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have the offence on t committed the the basis of the materials on record on its probative value, it can frame the charge, though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

12. Further, in the matter of **"State by SP through the SPE, CBI vs. Uttamchand Bohra"**, 2022 (16) SCC 663, the Hon'ble Supreme Court has held in para 21 of its judgment that:-

"21. In CBI v. K. Narayana Rao this Court, after reviewing the previous decisions that dealt with the question of the applicable standard relating to discharge of accused in a criminal case, summarised the principles in the following terms: (SCC pp. 520-23, paras 12-14)

"12. The first decision in Ramesh Singh relates to interpretation of Sections 227 and 228 of the Code for the considerations as to discharge the accused or to proceed with trial. Para 4 of the said judgment is pressed into service which reads as under: (SCC pp. 41-42)

'4. Under Section 226 of the Code while opening the case for the



prosecution the Prosecutor has got to describe the charge against the accused and state by what evidence he proposes to prove the guilt of the accused. Thereafter comes at the initial stage the duty of the Court to consider the record of the case and the documents submitted therewith and to hear the submissions of the accused and the prosecution in that behalf. The Judge has to pass thereafter an order either under Section 227 or Section 228 of the Code. If "the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing", as enjoined by Section 227. If, on the other hand, "the Judge is of opinion that there is ground for presuming that the accused has committed an offence which.... (b) is exclusively triable by the court, he shall frame in writing a charge against the accused", as provided in Section 228. Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence



of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is



only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial. An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor advisable. We may just illustrate the difference of the law by one more example. If the scales of pan as to the guilt or innocence of the accused are something like even, at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under Section 228 and not under Section 227.'

13. Discharge of the accused under Section 227 of the Code was extensively considered by this Court in P. Vijayan wherein it was



held as under. (SCC pp. 401-402, paras 10-11)

'10... ..If two views are possible and one of 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. Further, 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 of into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

11. At the stage of Section 227, the Judge has merely to sift the 9 evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, 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."

14. While considering the very same provisions i.e. framing of charges and discharge of the accused, again in Sajjan Kumar, this Court held thus: (SCC pp. 375-77, paras 19-21)

'19. It is clear that at the initial stage, if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is only for the purpose of deciding prima facie whether the court should proceed with the trial or not. If the evidence which the prosecution proposes to adduce proves the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial.

20. A Magistrate enquiring into a case under Section 209 CrPC is not to act as a mere post office and has to come



to a conclusion whether the case before him is fit for commitment of the accused to the Court of Session. He is entitled to sift and weigh the materials on record, but only for seeing whether there is sufficient evidence for commitment, and not whether there is sufficient evidence for conviction. If there is no prima facie evidence or the evidence is totally unworthy of credit, it is the duty of the Magistrate to discharge the accused, on the other hand, if there is some evidence on which the conviction may reasonably be based, he must commit the case. It is also clear that in exercising jurisdiction under Section 227 CrPC, 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.

Exercise of jurisdiction under Sections 227 and 228 CrPC

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 CrPC 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.¹¹

(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 inquiry 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 frame the charge, though for conviction the conclusion is required to 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 disclose 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 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."

13. In the matter of "**State (NCT of Delhi) vs. Shiv Charan Bansal and Others**", 2020 (2) SCC 290, the Hon'ble Supreme Court has held that at the stage of framing of charge, the trial court is not required to conduct a meticulous appreciation of evidence or a roving inquiry into the same and has the power to sift and weigh the evidence for the



limited purpose of finding out whether or not a prima facie case is made out against the accused to proceed with the trial.

14. From considering the entire facts and circumstances of the case, the material available in the charge sheet, from the statements of the complainant and witnesses as well as in view of the aforesaid judgments passed by the Hon'ble Supreme Court, there are prima facie evidence against the petitioners to frame charge under sections 498-A and 313 of the IPC. The question of whether or not, the miscarriage was caused on account of the action of the petitioners is a matter of fact, which can only be decided in trial.
15. The judgment of “**Ankita Jain**” (supra) cited by learned counsel for the petitioners is distinguishable on the facts of the present case, and therefore, no benefit could be extended to the petitioners from the said judgment.
16. Consequently, this Court does not find any infirmity or illegality in the order framing charge by the learned trial Court. The criminal revision fails and hereby **dismissed**.

Sd/-
(**Ravindra Kumar Agrawal**)
Judge

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