



2026:DHC:7109

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: July 31, 2026
Pronounced on: August 24, 2026

CNR No. DLHC011844232018

+ CRL.REV.P. 623/2018, CRL.M.A. 28537/2018

CHANDRA SHEKHAR SHARMA

.....Petitioner

Through: Mr. Ashutosh Lohia, Ms. Shraddha Bhargava, Mr. Mukesh Vatsa, Mr. Pranav Kumar, Mr. Ritik Chandel and Mr. Tarun Kaushik, Advs.

Versus

STATE (N.C.T. OF DELHI)

.....Respondent

Through: Mr. Satish Kumar, APP with Ms. Upasana Bakshi, Ms. Divya Bakshi and Mr. Ashok Kumar Shukla, Advs. With SI-Pawan Kumar, PS: V.K. South
Mr. Satendra Singh and Mr. Lalit Kumar, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present petition under *Section 397* read with *Section 401* of the Code of Criminal Procedure¹, 1973¹, the petitioner *inter alia* seeks setting aside of the order on charge dated 11.07.2018² passed by learned Additional Sessions Judge-03, New Delhi District, Patiala House in SC No. 275/2017 entitled '*State vs. Sanjay Kumar & Ors.*' arising out

¹ Hereinafter "**CrPC**"

² Hereinafter "**impugned order**"



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of FIR No.176/2017 dated 30.04.2017 insofar as it directs framing of charges under *Sections 120B* read with *302* of the Indian Penal Code, 1860³ against the petitioner.

2. *Briefly put*, the present FIR was registered upon receipt of secret information that an inter-State gang had allegedly taken a contract to murder the owner of Orient Taj Hotel and Resort. On 29.04.2017, at about 09:15 PM, a police raiding team intercepted a car, a motorcycle and a scooty. Five persons, namely Hari Ram, Chain Pal Gurjar, Sanjeev Kumar, Sanjay Kumar and Ashok Kumar were found in the car; two persons, namely Chaman Prakash (*rider*) and Bijender (*pillion rider*) were on the motorcycle; Manish Khari was riding the scooty. Upon being confronted by the police, accused Bijender allegedly fired a gunshot at SI Krishan Kumar with an unlicensed pistol, however, he managed to duck and narrowly escaped injury. Similarly, accused Manish Khari also fired at Inspector Richpal with an unlicensed pistol and the bullet struck his bullet-proof jacket.

3. Thereafter, the accused were overpowered and apprehended by the police team and *one* pistol with *one* live cartridge and *three* other live cartridges each were recovered from accused Bijender and Manish Khari respectively; *one* pistol with *three* live cartridges were recovered from accused Chain Pal Gurjar; *one* pistol with *one* live cartridge and *one* more live cartridge were recovered from accused Sandeep Kumar, and *one* country made pistol with *one* live cartridge and *one* more live cartridge were recovered from accused Hari Ram, Sanjay Kumar, Chaman Prakash

³ Hereinafter “**IPC**”



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and Ashok Kumar.

4. During investigation, in their disclosure statements, the co-accused persons namely Sanjay Kumar, Manish Khari and Chain Pal Gurjar revealed that co-accused Sanjay Kumar met with one Ravi Poopwas, who further introduced them to one Vijay Nagar, who introduced them to Shambhu Sharma and further introduced them to the present petitioner, who is alleged to have given the contract for murdering the respondent no.2/ victim, the petitioner's brother. Based thereon, the present petitioner was apprehended on 22.07.2017 from Bulandshahar, Uttar Pradesh and was subsequently granted bail *vide* order dated 01.08.2017 passed by the learned Trial Court.

5. After filing of the chargesheet on 14.07.2017, and supplementary chargesheet on 01.12.2017, the charges against the accused persons including the petitioner were framed by the learned Trial Court *vide* impugned order dated 11.07.2018 and formal charges were framed on 16.07.2018.

6. Hence, the present petition seeking setting aside of the order dated 11.07.2018 and 16.07.2018 passed by the learned Trial Court.

7. Before this Court, learned counsel for the petitioner primarily submitted that the learned Trial Court has erred in framing charges against the petitioner under *Sections 120B* read with *302* of the IPC as nothing incriminating has been recovered at his instance, so much so, he was neither named in the FIR nor was present at the scene of crime.

8. Also, his involvement, as per learned counsel, in the alleged offence is merely based on the disclosure statements of co-accused Sanjay Kumar,



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Manish Khari and Chain Pal Gurjar and some Call Detail Records⁴ of the petitioner with them. The learned counsel also submitted that the charge of conspiracy, in the absence of any material recovery, cannot be based merely on the disclosure statements of the co-accused persons and cannot in itself establish complicity of the petitioner, hence such disclosure is an inadmissible piece of evidence under *Section 27* of the Indian Evidence Act, 1872⁵.

9. Learned counsel further submitted that, even otherwise, since co-accused Shambhu is an old acquaintance of the petitioner, communication over mobile phone *inter se* themselves cannot be the sole basis for forming an assumption that the petitioner was a part of the alleged conspiracy. The learned counsel also submitted that though, the disclosure statements resulted in discovery of CDRs, but they only show the number of times the petitioner communicated with the co-accused Shambhu Sharma, and without their being any recorded conversation and/ or transcript, the same accord no collaborative value to the disclosure statements given *qua* the petitioner by the co-accused persons.

10. To buttress his arguments, learned counsel placed reliance upon the pronouncements by co-ordinate benches of this Court in ***Ashok Kumar Singh vs. State of NCT of Delhi***⁶ and ***Mamta Sapra vs. State Govt. of NCT of Delhi***⁷.

11. Lastly, learned counsel submitted that since there is *prima facie* no material either to show that the petitioner had prior knowledge of

⁴ Hereinafter “CDRs”

⁵ Hereinafter “Evidence Act”

⁶ 2024 SCC OnLine Del 4203



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commission of the offence and/ or that he shared the intention to commit the offence and/ or that he participated in any manner whatsoever in commission of the alleged conspiracy, charges could not have been framed against the petitioner under *Sections 120B* read with *302* of the IPC.

12. *Per contra*, learned APP submitted that the impugned order is well reasoned as there were/ are enough grounds to proceed against the petitioner under *Section 228 CrPC*, as there was/ is sufficient evidence against him to suspect commission of the alleged offence. Learned APP further submitted that during investigation, the role of the petitioner as the main conspirator i.e. the person having given the contract for murdering the respondent no.2, surfaced in the disclosure statements of co-accused Sanjay Kumar, Manish Khari and Chain Pal Gurjar, which fact has been corroborated by way of the CDRs, analysis of the petitioner as also the co-accused persons.

13. The learned APP submitted that the CDRs indicate a web of frequent communication *inter se* them, wherein the petitioner has communicated with co-accused Shambhu Sharma as many as *301 times* between 05.09.2016 to 14.05.2017 from his two mobile numbers and with co-accused Vijay Nagar *twice* on 29.09.2016; co-accused Shambhu Sharma has communicated with co-accused Vijay Nagar as many as *269 times* between 30.09.2016 to 15.04.2017 from his three numbers; co-accused Vijay Nagar has communicated with co-accused Ravi Kumar and co-accused Sanjay as many as *13 and 27 times* respectively; co-accused

⁷ 2024 SCC OnLine Del 4485



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Ravi Kumar had communicated with co-accused Sanjay Kumar as many as 143 times between 03.08.2016 to 16.01.2017 from his two mobile numbers; co-accused Ravi Kumar had communicated with co-accused Manish Khari as many as 26 times between 30.09.2016 to 15.04.2017 from his two mobile numbers; and co-accused Sanjay Kumar had communicated with co-accused Manish Khari as many as 70 times between 10.10.2016 to 15.04.2017 from his two mobile numbers, which clearly indicates the active involvement of the petitioner in the commission of the alleged offence.

14. Lastly, learned APP submitted that at the stage of framing of charges, the learned Trial Court is only required to sift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case against the accused person(s) is made out as a meticulous appreciation of evidence is impermissible.

15. In view thereof, as per learned APP since the present revision petition being devoid of any merit, the same is liable to be dismissed.

16. Learned counsel for the respondent no.2/ victim in support of the above submissions advanced by learned APP submitted that there is sufficient incriminating material against the petitioner to show that he had prior knowledge of the plan of the alleged offence and that the co-accused persons were acting at his behest. In fact, the same is evident from the disclosure statements of co-accused persons duly corroborated by the CDRs of the petitioner and the co-accused persons, who have been actively connected with each other and hatched the conspiracy to commit the murder of the respondent no.2.



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17. Heard learned counsel for the parties, as also the learned APP and perused the materials on record including the judgments cited at Bar.

18. Interestingly, as per law laid down by the Hon'ble Supreme Court in ***Union of India vs. Prafulla Kumar Samal***⁸; ***Dilawar Balu vs. State of Maharashtra***⁹; ***Sajjan Kumar vs. CBI***¹⁰; ***State of Gujarat vs. Dilipsinh Kishorsinh Rao***¹¹ and ***Amit Kapoor (supra)***, at the stage of framing of charges, the test is whether the allegations borne out from the record before the learned Trial Court, taken at their highest, constitute the alleged offence or not. As such, based on a conjoint reading of *Sections 227 and 228* of the CrPC, while framing of charges, the learned Trial Court is not required to conduct a mini trial and is only to ascertain the existence of a *prima facie* case without delving into the probative value of the material(s) available on record, the submissions advanced by the prosecution, as also the accused for determining as to whether sufficient grounds exist for proceeding against the accused. Thus, the statutory framework governing discharge and framing of charges under *Sections 227 and 228* of the CrPC respectively is well-settled and needs no further deliberation.

19. Bearing the aforesaid in mind and since the present petition challenges the legality and propriety of the impugned order on charge dated 11.07.2018, for ease of reference, relevant findings *qua* the petitioner as recorded therein are reproduced as under:

“... ..Accused Sanjay, Manish Khari and Chainpal Gurjar further disclosed that accused Sanjay Kumar had met Ravi

⁸ (1979) 3 SCC 4

⁹ (2002) 2 SCC 135

¹⁰ (2010) 9 SCC 368

¹¹ (2023) 17 SCC 688



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Roopwas and further introduced them to accused Vijay who had further introduced them to accused Shamhhu Shrama who had further introduced them to accused Chander Shekhar Sharma and accused Chander Shekhar Sharma, who is the brother of victim Shri K.K. Sharma, had given the contract for murdering the victim Shri K.K. Sharma.

Ld. Addl. PP has contended that all accused persons are liable to be charged with conspiracy to commit murder.

Ld. Counsel for the accused persons have stated that the disclosure statements of the accused persons cannot be taken into account. Ld. Counsel for accused Chander Shekhar Sharma has contended that there is no evidence against accused Chander Shekhar Sharma and he should be discharged.

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Now as per CDRs accused Chander Shekhar Sharma had communicated with accused Shambu Sharma from his mobile number 8126588888 form 05.09.2016 to 14.05.2017 (206 times).

Accused Chander Shekhar Sharma had also communicated with accused Shambu Sharma from his another mobile no. 9759022222 from 02.12.2016 to 07.04.2017 (95 calls).

Accused Chander Shekhar Sharma communicated with accused Vijay Nagar on mobile no 7017616323 on 29.09.2016 at 10:1 AM and on 9891921515 on 29.09.2016 at 10:12 AM.

Accused Shambhu Sharma had communicated with accused Vijay Nagar on mobile no. 9891921515 from to 15.04.2017 (73 calls) and on mobile no. 717612323 from 29.11.2016 to 24.01.2017 (39 calls).

Accused Shambu had also communicated with the accused Vijay Nagar on mobile no. 9891921515 from to 15.04.2017 (73 calls) and 7017612323 from 29.11.2016 to 24.01.2017 (39 calls). It is further stated that accused Shambu had



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communicated with accused Vijay Nagar on his mobile no. 7017616323 from 30.09.2016 to 28.01.2017 (18 calls) and 9891921515 from 30.09.2016 to 20.03.2017 (139 calls).

Accused Vijay Nagar from his mobile no. 9891921515 had communicated with accused Ravi Rupwas on 17.10.2016, 17-19.02.2017 on mobile no. 9457827127 (13 calls) and accused Vijay Nagar had also communicated with accused Sanjay on mobile no. 9718136747 after 06.03.2017 (24 calls) and on mobile no: 8376921484 (3 calls).

Accused Ravi Kumar @ Rupwas had communicated with accused Sanjay Kumar from 03.08.2016 and 29.08.2016 and after 12.10.2016 to 24.04.2017 on mobile no. 718136747 (122 calls) and mobile no. 8376921484 from 02.08.2016 to 16.01.2017 (21 calls)

Accused Ravi Kumar @ Rupwas had communicated with accused Manish Khari on mobile no. 9599142905 from 30.09.2016 till March, 2017 (13 calls) and on mobile no. 7011459683 from 29.12.2016 to 15.04.2017 (13 calls).

Accused Sanjay Kumar from his mobile no. 9718136747 had communicated with accused Manish Khari on mobile no. 9599142905 after 10.10.2016 to 26.04.2016 (61 calls) and mobile no. 7011459683 from 22.11.2016 to 21.04.2017.

Accused Sanjay Kumar from mobile no. 8376921484 had communication with accused Manish Khari on mobile no. 7011459683 on 06.03.2017 (8 calls) and on mobile no. 9599142905 on 15.04.2017 (one call).

When the police had apprehended the accused persons namely Manish Khari, Chaman Prakash @ Dholi, Bijender @ Khapatta, Hari Ram @ Mintu, Chain Pal Gurjar @ Chainu, Sandeep Kumar @ Dhola, Sanjay Kumar, on receipt of secret information they were only aware that they were going to commit murder of owner of Orient Taj Hotel and Resort. Now Orient Taj Hotel and Resort had three owners.



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However, after recording the disclosure statements of the accused a new fact was discovered by the police to the effect that the accused persons were going to commit the murder of Shri K.K. Sharma. **It was further revealed that they had received a contract for murdering Shri K.K. Sharma which was given by accused Chander Shekhar Sharma through Shri Shambhu Sharma, Vijay Nagar and Ravi Roopwas to accused Sanjay Kumar.** Accused Sanjay Kumar was present in the car along with accused Hari Ram, Chaman Prakash, Sandeep Kumar and Ashok and all of them were possessed illegal arms. Similarly accused Chain Pal Gurjar, Bijender and Manish Khari were armed with illegal weapons and were present at the same spot. As per CDRs, Sanjay had communicated with accused Manish Khari. **CDRs also show the involvement of accused Chander Shekhar Sharma, Shri Shambhu Sharma and Ravi Roopwas. The CDRs of the mobile phones of the accused persons which were subsequently recovered corroborate and confirm the disclosure statements of the accused persons and show the complicity of all accused persons including accused Chander Shekhar Sharma. The chain of communication which is established as per CDRs therefore ends at accused Chander Shekhar Sharma and the statement of the victim Shri K.K. Sharma recorded under section 164 Cr.P.C also shows that accused persons used to meet accused Chander Shekhar Sharma at the Hotel at Agra. The amount of Rs. 50,000/- towards the advance received was also recovered. Thus prima facie the complicity of all accused persons is established in the conspiracy.**

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Considering these facts and circumstances, at this stage there is grave suspicion against the accused persons that they had conspired to commit murder of KK. Sharma. The accused persons had done some acts towards the execution of the conspiracy in as much as money had passed hands, persons had gathered with illegal arms and were proceeding to commit the crime and when they were intercepted they attempted to even murder the police officials. Conspiracy is



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*punishable as abetment and under section 115 IPC it is not necessary that the act abetted should be committed. **Therefore at this stage charges are liable to be framed against all accused persons the for offence under section 120B IPC read with section 302 IPC is made out against all the accused persons. ...***

[Emphasis supplied]

20. As apparent from above, the learned Trial Court has proceeded to frame the charges under *Sections 120B* read with 302 of the IPC against the petitioner only on the basis of the disclosure statement(s) of the co-accused persons Sanjay Kumar, Manish Khari and Chain Pal Gurjar as also the connection of the petitioner with the accused by way of CDRs as also on the basis of the considering surrounding circumstances and simply because the petitioner was in touch with one of the co-accused person for a long stretch of time.

21. Therefore, this Court has to judge *the probative value of such disclosure statements, and if they coupled with the CDRs connectivity are themselves sufficient for the framing charges under Sections 120B read with 302 of the IPC against the petitioner?*

22. It has also to be borne in mind that the said CDRs are, *admittedly*, without any transcripts thereof and there is/ are no FSL Report qua them. Merely because the petitioner was in touch with the other co-accused persons for a long period of time, under such circumstances, is not sufficient for framing of charges under *Sections 120B* read with 302 of the IPC against the petitioner.



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23. In these facts, Section 27 of the IPC¹² which talks about what and how much information(s) given by any accused person, even to a “police officer”, be it in the nature of a “confession”, may/ can be taken, is something which forms the backbone of the present proceedings.

24. It is relevant to note that the Hon’ble Supreme Court in **State (NCT of Delhi) vs. Navjot Sandhu**¹³ while dealing with the said provisions of Section 27 of the IPC observed as under:-

“.....114. The interpretation of Section 27 of the Evidence Act has loomed large in the course of arguments. The controversy centred round two aspects:

(i) Whether the discovery of fact referred to in Section 27 should be confined only to the discovery of a material object and the knowledge of the accused in relation thereto or the discovery could be in respect of his mental state or knowledge in relation to certain things — concrete or non-concrete.

(ii) Whether it is necessary that the discovery of fact should be by the person making the disclosure or directly at his instance. The subsequent event of discovery by the police with the aid of information furnished by the accused — whether can be put against him under Section 27.

These issues have arisen especially in the context of the disclosure statement (Ext. PW-66/13) of Gilani to the police. According to the prosecution, the information furnished by Gilani on certain aspects, for instance, that the particular cellphones belonged to the other accused, Afzal and Shaukat, that the Christian Colony room was arranged by Shaukat in order to accommodate the slain terrorist Mohammed, that police uniforms and explosives “were arranged” and that the names of the five deceased terrorists were so and so are relevant under

¹² 27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

¹³ (2005) 11 SCC 600



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Section 27 of the Evidence Act as they were confirmed to be true by subsequent investigation and they reveal the awareness and knowledge of Gilani in regard to all these facts, even though no material objects were recovered directly at his instance.

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119. We have noticed above that the confessions made to a police officer and a confession made by any person while he or she is in police custody cannot be proved against that person accused of an offence. Of course, a confession made in the immediate presence of a Magistrate can be proved against him. So also Section 162 CrPC bars the reception of any statements made to a police officer in the course of an investigation as evidence against the accused person at any enquiry or trial except to the extent that such statements can be made use of by the accused to contradict the witnesses. Such confessions are excluded for the reason that there is a grave risk of their statements being involuntary and false. Section 27, which unusually starts with a proviso, lifts the ban against the admissibility of the confession/statement made to the police to a limited extent by allowing proof of information of a specified nature furnished by the accused in police custody. In that sense Section 27 is considered to be an exception to the rules embodied in Sections 25 and 26 (vide *Udai Bhan v. State of U.P.* [1962 Supp (2) SCR 830 : AIR 1962 SC 1116 : (1962) 2 Cri LJ 251]). Section 27 reads as follows:

“27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

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125. We are of the view that *Kottaya case* [AIR 1947 PC 67 : 48 Cri LJ 533 : 74 IA 65] is an authority for the proposition that “discovery of fact” cannot be equated to the object produced or found. It is more than that. **The discovery of fact arises by reason of the fact that the information given by the accused**



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exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place.”

[Emphasis supplied]

25. In the present proceedings, and as apparent from the impugned order, framing charge against the petitioner under *Sections 120B* read with 302 of the IPC, everything is based on the disclosure statements of the co-accused persons qua him, and that too, to the effect that the petitioner was/ is a co-conspirator in the alleged conspiracy and that since he gave the contract for murdering the respondent no.2 herein, he is said to be the main conspirator. Barring this, *admittedly*, there is no *physical* recovery of any kind in pursuance thereto from any of the co-accused persons and/ or the petitioner. This, thence, *per se* is not sufficient for establishing any kind of nexus and/ or relationship *inter se* them.

26. Even otherwise, since the said CDRs are, *admittedly*, without any transcripts, there is no clarity about the details of conversations *inter se* the co-accused persons and the petitioner. In view thereof, though the petitioner was in touch with the other co-accused persons for a long period of time, the same itself without any concrete proof and/ or FSL Report qua them, can hardly form the basis of framing of charge against the petitioner under *Sections 120B* read with 302 of the IPC.

27. In view of the dicta in ***Prafulla Kumar Samal (supra)***; ***Dilawar Balu (supra)***; ***Sajjan Kumar (supra)***; ***Dilipsinh Kishorsinh Rao (supra)*** and ***Amit Kapoor (supra)***, this Court finds reason for interfering with the findings rendered by the learned Trial Court in the impugned order whereby charges have been framed under *Sections 120B* read with 302 of the IPC against the petitioner.



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28. This Court also finds that co-ordinate benches of this Court, while dealing with similar circumstances in *Ashok Kumar (supra)* and *Mamta Sapra (supra)*, have also discharged the accused(s) therein.

29. In view of the aforesaid analysis, as also the legal position discussed hereinabove, this Court is of the considered opinion that there are no sufficient material(s) on record *qua* the petitioner for framing of charges against him under *Sections 120B* read with *302* of the IPC and proceed with trial.

30. Accordingly, the present petition is allowed and the impugned order on charge dated 11.07.2018 passed by learned Additional Sessions Judge-03, New Delhi District, Patiala House in SC No. 275/2017 entitled '*State vs. Sanjay Kumar & Ors.*' arising out of FIR No.176/2017 dated 30.04.2017 is set aside. As such, the formal order on charge dated 16.07.2018 is also set aside.

31. As such, the present petition along with the pending application is disposed of in the above terms.

32. A copy of the judgment be sent to the learned Trial Court for necessary information and compliance.

SAURABH BANERJEE, J.

AUGUST 24, 2026/Ab/DA