

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

CRIMINAL REVISION No. 4694 of 2023

BETWEEN:-

1. **SHALINI NAHATA
W/O SHRI PRAMOD NAHATA,
AGED ABOUT 48 YEARS,
OCCUPATION: HOUSEWIFE
R/O 67 GOYAL ENCLAVE KHAJRANA
BEHIND KHAJRANA TEMPLE INDORE
(MADHYA PRADESH)**

2. **PRAMOD NAHATA
S/O LATE SHRI DHANPAT SINGH NAHATA,
AGED ABOUT 53 YEARS,
OCCUPATION: BUSINESS
67 GOYAL ENCLAVE, KHAJRANA,
BEHIND KHAJRANA TEMPLE, INDORE (MADHYA
PRADESH)**

.....PETITIONER

***(SHRI RAVINDRA SINGH CHHABRA SENIOR ADVOCATE WITH SHRI
MUDIT MAHESHWARI ADVOCATE FOR PETITIONER)***

AND

**THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER THROUGH
POLICE STATION KHAJRANA
INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI SURENDRA GUPTA - GOVT. ADVOCATE)

.....

Reserved on: 13.03.2024

Delivered on: 08.04.2024

*This revision petition having been heard and reserved for judgment,
coming on for pronouncement this day, the court passed the following:*

ORDER

With consent of the parties heard finally.

Invoking the revisional jurisdiction under Section 397 read with Section 401 of Cr.P.C., the petitioner has preferred this revision against the order of framing charges dated 31.07.2023 passed by the Thirteenth Additional Sessions/Special Judge (POCSO) Act, District Indore in S.T. No.339/2023 whereby learned Sessions Judge framed charges for offence under Section 75, 79 of Juvenile Justice Act, 2015 r/w Section 370 of of IPC, 1860 against the petitioners.

2. Prosecution story in brief is that on 06.10.2024 Child Welfare Committee rescued one child named Shivam from the residence of the petitioners. It was alleged that the child was working as a domestic servant at the residence of the Petitioners and even on small/petty mistake the petitioners used to beat Shivam and some times he was not provided with food on time. On the basis of which Child Welfare Committee arrived at the finding that prima facie offence under Section 75 & 79 of Juvenile Justice Act, 2015 r/w Section 370 of IPC is made out against the petitioners. The Child Welfare Committee vide email dated 08.10.2021 communicated this incident to respondent and FIR bearing Crime No.1065/2021 was registered against the petitioners on 30.10.2021.

3. After investigation charge-sheet under Sections 75 and 79 of Juvenile Justice Act, 2015 was filed. In the sequel thereof, after considering material available on charge-sheet, the learned trial Court has framed the charges against the petitioners under Section 75 & 79 of Juvenile Justice Act, 2015 along with Section 370 of IPC, vide the impugned order. Being aggrieved from that order, the petitioners have filed this revision.

4. Learned Senior counsel for the petitioners submits that in brief the

matter is related to framing of charges under Section 370 of IPC. Learned counsel mainly contended that in this case FIR was lodged under Section 75 & 79 of Juvenile Justice Act and 370 of IPC, however, charge sheet was filed only under Section 76 & 79 of Juvenile Justice Act and offence under Section 370 of IPC was removed from the charge sheet, in spite of the removal of offence under Section 370 of IPC, learned trial Court has wrongly framed charges under Section 76 & 79 of Juvenile Justice Act and Section 370 of IPC, whereas offence under Section 370 of IPC is not made out at all.

5. Learned counsel contended that Rambabu Mahato was working in the house of the petitioners as a cook, later on he left the job to start his own business. During corona pandemic Rambabu approached the petitioners with a request to provide shelter and care to his child Shivam, as he was unable to maintain his family. The petitioners accepted the request and entered into an agreement for custody of the child on 06.08.2021. Counsel submitted that the petitioners have provided healthy food, shelter, and treated him as their own son. The child was not keen in studying hence they booked a return ticket and sent him to his home town. At any point of time they have not ill treated him, hence offence under Section 370 of IPC, is not made out against the petitioners.

6. Learned Govt. Advocate on the other hand, objected the contentions of learned Senior counsel and submitted that learned trial Court is free to take view as per evidence available before the Court. In this case the statement of juvenile and his father are significant. The child has clearly stated in his statement recorded under Section 161 of Cr.P.C that when he committed any wrong he has been beaten with wooden stick. He has clearly alleged in his statement that the lady, whom he used to call aunty, used to beat him. The

child has also deposed that he used to do house hold work like sweeping, mopping, cleaning vessels, vehicles, purchasing vegetables and fruits etc for which Rs.4000/- has been paid to his mother. The petitioners have also not sent the child to school. Further the child also stated in his statement recorded under Section 161 of Cr.P.C that he was threatened by "Nahata" who also used to pinch and beat him. As such offence under Section 370(1) of IPC is made out against the petitioners and the order of learned trial Court regarding framing of charges is found to be correct and in accordance with law, hence no case of interference is made out.

7. Having heard the rival submissions of counsel for the parties, the record of the case has been perused.

8. Now, the question for consideration arises as to whether the impugned order passed by the learned trial Court with regard to framing of charges under Section 370 of IPC, is improper, illegal or incorrect?

9. It is pertinent to quote here Section 370 of IPC, which reads as under:

Section 370 of IPC: Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by--First.— using threats, or

Secondly.— using force, or any other form of coercion, or

Thirdly.— by abduction, or

Fourthly.— by practising fraud, or deception, or

Fifthly.— by abuse of power, or

Sixthly.— by inducement, including the **giving or receiving of payments or benefits**, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Explanation 1.— The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2.— The consent of the victim is immaterial in determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be

punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

10. Learned Senior Counsel has vehemently submitted that in the present case prosecution itself is of the opinion that no case under Section 370 of IPC is made out against the petitioners as there was no evidence in relation to this offence. Under these circumstances framing charge under Section 370 of IPC by the trial Court without assigning any specific reason could be assumed in accordance with law. Learned counsel further submitted that none of the ingredients of offence under Section 370 of IPC is made out hence the charges under Section 370 of IPC cannot be framed. On this aspect learned counsel relied upon the law laid down by Hon'ble Apex Court in the case of ***Honnaiah T.H. vs. State of Karnataka and Ors*** reported as ***2022 SCC OnLine SC 1001***. In this case Hon'ble has opined regarding the interlocutory orders and final orders and the maintainability of revision petition. Since this court is already of the view that the revision petition is maintainable against framing of charges the view of Hon'ble Apex Court has already been followed by this Court.

11. In this regard learned Senior Counsel has also relied upon the case of ***Vishnu Kumar Shukla vs. State of Uttar Pradesh*** reported as ***AIR Online 2023 SC 946***, wherein it is held as under:

20. In *State of Tamil Nadu v N Suresh Rajan*, (2014) 11 SCC 709, it was observed notwithstanding the difference in language of Sections 227 and 239, CrPC, the approach of the Court concerned is to be common under both provisions. The principles holding the field under Sections 227 and 228, CrPC are well settled, courtesy, inter alia, *State of Bihar v Ramesh Singh*, (1977) 4 SCC 39; *Union of India v Prafulla K Samal*, (1979) 3 SCC 4; *Stree Atyachar* Yes, the allusion is to

Robert Frost's celebrated poem – The Road Not Taken. Virodhi Parishad v Dilip N Chordia, (1989) 1 SCC 715; Niranjana Singh Karam Singh Punjabi v Jitendra B Bijaya, (1990) 4 SCC 76; Dilawar B Kurane v State of Maharashtra, (2002) 2 SCC 135; Chitresh K Chopra v State (Government of NCT of Delhi), (2009) 16 SCC 605; Amit Kapoor v Ramesh Chander, (2012) 9 SCC 460; Dinesh Tiwari v State of Uttar Pradesh, (2014) 13 SCC 137; Dipakbhai Jagdishchandra Patel v State of Gujarat, (2019) 16 SCC 547; and State (NCT of Delhi) v Shiv Charan Bansal, (2020) 2 SCC 290. We need only refer to some, starting with Prafulla K Samal (supra), where, after considering Ramesh Singh (supra), K P Raghavan v M H Abbas, AIR 1967 SC 740 and Almohan Das v State of West Bengal, (1969) 2 SCR 520, it was laid down as under:

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

(1) 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.

(2) 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.

(3) The test to 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.

(4) 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 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 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.’ (emphasis supplied)

21. In *Niranjan Singh Karam Singh Punjabi* (supra), this Court was alive to reality, stating that ‘... it cannot be expected even at the 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.’ If a view gives rise to suspicion, as opposed to grave suspicion, the Court concerned is empowered to discharge the accused, as pointed out in *Sajjan Kumar v Central Bureau of Investigation*, (2010) 9 SCC 368. The Court, in *Dinesh Tiwari* (supra) had reasoned that if the Court concerned opines that there is ground to presume the accused has committed an offence, it is competent to frame a charge even if such offence is not mentioned in the Charge Sheet. As to what is ‘strong suspicion’, reference to *Dipakbhai Jagdishchandra Patel* (supra) is warranted, where it was explained that it is ‘... the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the prima facie view that the accused has committed the offence.’

22. In a recent judgement viz. *State of Gujarat v Dilipsinh Kishorsinh Rao*, 2023 INSC 89414, this Court held:

‘7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the

charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

8. At the time of framing of the charge and taking cognizance the accused has no 2023 SCC OnLine SC 1294. right to produce any material and call upon the court to examine the same. No provision in the Code grants any right to the accused to file any material or document at the stage of framing of charge. The trial court has to apply its judicial mind to the facts of the case as may be necessary to determine whether a case has been made out by the prosecution for trial on the basis of charge-sheet material only.

9. If the accused is able to demonstrate from the charge-sheet material at the stage of framing the charge which might drastically affect the very sustainability of the case, it is unfair to suggest that such material should not be considered or ignored by the court at that stage. The main intention of granting a chance to the accused of making submissions as envisaged under Section 227 of the Cr. P.C. is to assist the court to determine whether it is required to proceed to conduct the trial. Nothing in the Code limits the ambit of such hearing, to oral hearing and oral arguments only and therefore, the trial court can consider the material produced by the accused before the I.O.

10. It is settled principle of law that at the stage of considering an application for discharge the court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged. ... xxx

11. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged. The expression “the record of the case” used in Section 227 Cr. P.C. is to be understood as the documents and articles, if any, produced by the

prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency.

12. The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.' (emphasis supplied)

23. On a careful conspectus of the legal spectrum, juxtaposed with our view on the facts and merits expressed hereinbefore, we are satisfied that there is no suspicion, much less strong or grave suspicion that the appellants are guilty of the offence alleged. It would be unjustified to make the appellants face a full-fledged criminal trial in this backdrop. In an appeal dealing with the refusal of the High Court to quash an FIR under Section 482, CrPC albeit, this Court, while setting aside the judgment impugned therein and quashing that FIR, took the view that '...the Appellants are to be protected against vexatious and unwarranted criminal prosecution, and from unnecessarily being put through the rigours of an eventual trial.' The protection against vexatious and unwanted prosecution and from being unnecessarily dragged through a trial by melting a criminal proceeding into oblivion, either through quashing a FIR/Complaint or by allowing an appeal against order rejecting discharge or by any other legally permissible route, as the circumstances may be, in the deserving case, is a duty cast on the High Courts. The High Court should

have intervened and discharged the appellants. But this Court will intervene, being the sentinel on the qui vive."

12. Virtually the aforesaid citation also ordains that at the stage of framing of charges the probative value of materials on record need not to be gone into and the trial Court has to see only as to whether strong suspicion is made out or not. Since there are so many materials available against the petitioner regarding specific allegations that they used to get household work done by the victim child, not only that they also assaulted the child on every trivial mistakes done by the child, also there is allegation regarding monthly payment of money for the work done by the child. As such there is sufficient material available on the record by which strong suspicion regarding offence under Section 370 of IPC is made out, hence the aforesaid law does not help the petitioners in this case.

13. On this aspect, the Hon'ble Apex Court in the case of *State of M.P. vs. Deepak [(2019) 13 SCC 62]*, reversing the order of discharging from charges under Section 306 of IPC, has enunciated the principles which the High Courts must keep in mind while exercising their jurisdiction under the provision. In this case, endorsing another case of Hon'ble Apex Court in the case of *Amit Kapoor vs. Ramesh Chander [(2012) 9 SCC 460]* has quoted as under:-

"27. .. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may

interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, *the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.*

14. Learned counsel for the petitioners has submitted that since no *prima facie* case is made out against the petitioners, the impugned order is not sustainable. On this aspect, the law laid down by Hon'ble Apex Court in the case of **State of Orissa vs. Debendranath Padhi [2004 Law Suit (SC) 1408]** is worth to refer here as under:

"Further, at the stage of framing of charge **roving and fishing inquiry is impermissible**. If the contention of the accused is accepted, there would

be a mini trial at the stage of framing of charge. That would defeat the object of the Code. It is well-settled that at the stage of framing of charge the defence of the accused cannot be put forth."

15. This Court is conscious of the various decisions laid down by Hon'ble Apex Court on the point. In the case of **Union of India vs. Prafulla Kumar Samal and Another [AIR 1979 SC 366]**, the Hon'ble Apex Court has held as under:

"The scope of section 227 of the Code was considered by a recent decision of this Court in the case of State of Bihar v. Ramesh Singh(1) where Untwalia, J. speaking for the Court observed as follows:-

"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 pro poses to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebut ted 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".

16. Learned counsel has vehemently emphasised that the ingredients of Sections 370 of IPC have not been made out on the basis of material available on record. On this aspect, the observations made by Hon'ble Apex Court in the case of **State of Maharashtra & Ors. vs. Som Nath Thapa & Ors** reported

as **(1996) 4 SCC 659** is relevant in context of this case, which reads as under:-

"32 if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the Court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage."

17. Further in the *Umar Abdul Sakoor Sorathia vs. Intelligence Officer, Narcotic Control Bureau* reported as **(2000)1 SCC 138** Hon'ble Supreme Court has held that:-

"It is well settled that at the stage of framing charge the court is not expected to go deep into the probative value of the materials on record. If on the basis of materials on record the court could come to the conclusion that the accused would have committed the offence the court is obliged to frame the charge and proceed to the trial."

18. In view of the aforesaid principles, I have gone through the evidence available on record and on careful perusal of the documents filed with the revision petition, particularly, the charge-sheet, *prima facie*, well founded the case for the offence punishable under section 370 of IPC, is made out against the petitioners for framing the charges. At the stage of framing the charges, the Court cannot apply its judicial mind for scrutinizing the fact as to whether that the evidence available on record is sufficient for conviction or not. In a case, pertaining to the revision under Section 306 of IPC, the view of this Court in the case of **Ravi Kumar Pandey vs. State of M.P. [2018 Law Suit (MP) 2190]** is worth to refer here as under:-

"The standard of test, proof and judgment which is to be applied finally before finding, the accused guilty or otherwise, is not exactly to be applied at the stage of framing of charge by the trial Court. At this stage, even a very strong suspicion founded upon material before the trial Court, which leads

him to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged Cri. Rev. No.1971/2013 may justify the framing of charge against the accused in respect of the commission of that offence is lawful.

9. At this stage it is not required to go into the merits of the prosecution evidence as required to discuss at the stage of passing of judgment by the trial Court. There is no need to sift and weigh or appreciate the prosecution evidence as well as defence available to the applicants and come to the conclusion that no prima-facie case is made out nor could be exercised to stifle a legitimate prosecution. Accordingly, I do not find any illegality or perversity in the impugned order dated 26.08.2013 warranting interference by way of this revision petition against framing of charge. Hence, the revision is dismissed summarily."

19. Having said that this is a case where relentless tyranny was said to be operated by petitioners with the victim child. In the case at hand, it is emanated from record, that the petitioners had, by their act and consecutive course of conduct, constituted offence punishable under Section 370 of IPC. In FIR there was specific allegation against petitioners that they used to get the household work done by the child, further allegation is that they used to assault, pinch, the child for committing any wrong in the household work assigned by them. They have also paid an amount to the parents of the child on monthly basis for the work done by him. Further it is evident that the child has not been sent for school. These facts have been corroborated with the statement of the child recorded by the Police.

20. In view of the aforesaid propositions and discussions, this Court is of the view that learned trial Court, while framing of charges, must apply its judicial mind on the material placed on record and must be satisfied that there is strong possibility subsist that the accused has committed the offence. At the juncture of framing of charges, the Court has to prima facie examine as to whether there is sufficient ground for proceeding against the accused. Nevertheless, the Court is not expected to evaluate or analyse the findings in order to arrive at the

conclusion that the material furnished by the prosecution are sufficient to convict the accused or not? In the case at hand, the findings of learned trial Court regarding prima facie case against the accused persons appear to be infallible.

21. So far as the revisional power of this Court is concerned, it is well settled legal position that the jurisdiction of the revisional Court is not as that of an appellate Court, which is free to reach its own conclusion on evidence untrammelled by any finding entered by the trial Court. Actually the jurisdiction of revisional Court has a limited scope. The revisional Court can interfere with the impugned order of subordinate Court only when it is unjust and unfair. In case where the order of subordinate Court does not suffer from any infirmity or illegality merely because of equitable considerations, the revisional Court has no jurisdiction to re-consider the matter and pass a different order in a routine manner.

22. On this aspect, the law laid down by Hon'ble Apex Court in the case of **Amit Kapoor (Supra)**, is pertinent to quote here as under:-

"The jurisdiction of the Court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression 'prevent abuse of process of any court or otherwise to secure the ends of justice', the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily....."

23. Further, in the case of State of **Rajasthan vs. Fateh Karan Mehdu** [2017 (3) SCC 1998], the apex Court has observed as under:-

"26. The scope of interference and exercise of jurisdiction under Section 397 CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of **framing of a charge**, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether **there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt**. The framing of charge is not a stage, at which stage final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of the Code of Criminal Procedure."

24. In view of the aforesaid discussion in entirety as well as the material available on record, the law laid down by Hon'ble Apex Court in the aforesaid cases, this Court does not find any illegality, irregularity or impropriety in the impugned order passed by the learned trial Court. Therefore, no interference is warranted.

25. At this stage, this revision petition filed by the petitioners fails. Resultantly, the present petition is dismissed and the impugned order of the learned trial Court is affirmed.

26. Pending application, if any, also closed.

27. It is made clear that this Court has not made any observations on the merits of the case and this order shall not be come in the way of the learned trial Court while passing the final judgment.

(PREM NARAYAN SINGH)
JUDGE

sumathi

