

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 09th OF JULY, 2025

CRIMINAL REVISION No. 2843 of 2025

BALUSINGH

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Govind Pal Singh Songara - Advocate for the applicant.

Shri Prasanna Prasad – Advocate for respondent.

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ORDER

Per: Justice Binod Kumar Dwivedi

This revision petition has been filed under Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short hereinafter referred as, 'BNSS') against the order dated 07/03/2025 passed in Special Case Lok. No.01/2025 by Special Judge (Prevention of Corruption Act), Agar (M.P.), whereby charges under Section 7(a)(b) of Prevention of Corruption Act, 1988 (for short hereafter referred as, 'PC Act') have been framed against the applicant.

02. The facts in brief are that applicant was posted as Sarpanch in Gram

Panchayat Ahirbardiya, Janpad Panchayat Agar, District Agar Malwa (M.P.). Complainant Amarsingh Banjara S/o Gajja Ji made a complaint on affidavit to the Special Police Establishment that he has been shortlisted as beneficiary of 'Pradhanmantri Awas Yojana' and his name is at serial No.48 of the list, but to favour in allotting the money, applicant has made a demand of Rs.20,000/-. On this complaint, after making preparation for laying a trap, complainant was sent to the applicant, who gave Rs.20,000/- as a bribe to the applicant, who stashed the money in his pocket. The same trap party apprehended him along with the money.

03. After following the due procedure and arresting the accused, FIR was registered at Crime No.231/2023 at Police Station - Special Police Establishment, Bhopal and after due investigation charge sheet was filed and charges as mentioned hereinabove were framed.

04. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case in a conspiracy hatched by the complainant himself along with police party. Transcript of the audio recording does not show any demand of money and no work was pending with the applicant. No case is made out against the applicant, hence prays for allowing the revision petition by setting aside the impugned order of framing charges.

05. Learned counsel for the respondent / State submits that no exception

can be taken to the impugned order as sufficient material has been collected during the inquiry and investigation to prove complicity of the applicant in the alleged crime. He has been caught red handed. The money, which was offered to him by the complainant and accepted by the applicant, has been seized. Defence evidence, if any, cannot be looked into at this stage. Proper stage for appreciating defence evidence is during trial. On these submissions, he prays for dismissal of the revision petition as devoid of any substance.

06. Heard and considered the rival submissions raised at bar by learned counsel for the parties and perused the record.

07. At the time of framing of the charges and taking cognizance the accused has no right to produce any material and call upon the court to examine the same. No provision in the Code of Criminal Procedure, 1973 (for short hereinafter referred as, '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.

08. 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 Code 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 Investigating Officer.

09. 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.

10. 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 of Code 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.

11. 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 Vs. Som Nath Thapa** reported in **(1996) 4 SCC 659** and the **State of MP v. Mohan Lal Soni** reported in **(2000) 6 SCC 338** has held as under:

“..... 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)

12. In the case of **Vishnu Kumar Shukla Vs. State of Uttar Pradesh** reported in **AIR Online 2023 SC 946**, it has been 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; *Virodhi Parishad v Dilip N Chordia*, (1989) 1 SCC 715; *Niranjan Singh Karam Singh Punjabi v Jitendra B Bijjaya*, (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.*

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.”

13. On this aspect, the Hon'ble Apex Court in the case of **State of M.P. Vs. Deepak** reported in **(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** reported in **[(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. Hon'ble Apex Court in the case of State of Orissa Vs. Debendranath

Padhi reported in **2004 Law Suit (SC) 1408]** has held 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** reported in **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 emphasized that the ingredients of Section 7(a)(b) of PC Act 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 in **(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 in **(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. Observation of this Court in the case of **Ravi Kumar Pandey Vs. State of M.P.** reported in **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. The law laid down by Hon'ble Apex Court in the case of **Amit Kapoor Vs. Ramesh Chander** reported in (2012) 9 SCC 460, 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.....”

20. Further, in the case of **State of Rajasthan Vs. Fateh Karan Mehdu** reported in 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.”

21. In view of the aforesaid principles, we have gone through the evidence available on record and on careful perusal of the documents filed with the revision petition, there is *prima facie* well founded case for the offence punishable under Section 7(a)(b) of the PC Act, is made out against the applicant for framing the charges.

22. There is ample evidence to connect the applicant with the aforesaid crime. Not only audio recording is available but leaving this apart the fact remains that the applicant has been caught red handed taking bribe of Rs.20,000/- from the complainant. The contention raised on behalf of the applicant that audio recording does not show demand by the applicant does not come to his rescue as other evidence is available on record.

23. Witnesses Amarsingh S/o Gajja Ji Banjara, Constable Umesh Jatav, Constable Shyam Sharma, Constable Sandeep Rao Kadam, Constable Neeraj Kumar Rathore, Vijayshankar Gupta, Omprakash Mulchandani and Ishwarsingh Nayak, who have been part of the trap proceeding have supported

the case by way of their statements. At this stage, it is not required to go into the merits of the prosecution evidence as it required to discuss at the stage of passing of judgment by the trial Court.

24. From the aforesaid evidence available on record, *prima facie* case is made out for framing of charges against the applicant. These evidences raises grave suspicion against the applicant. Accordingly, we are of the considered view that no illegality, irregularity or impropriety has been found in the impugned order of framing of charges passed by the learned trial Court. Therefore, no interference is warranted.

25. Resultantly, the present revision petition, which is devoid of any substance, fails and is hereby dismissed. It is made clear that any observation made by this Court in passing this order will not affect the learned trial Court while passing the final judgment.

26. All the pending interlocutory applications, if any, shall stand closed.

Certified copy as per rules.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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