

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

129

CRR-2369-2025

Date of Decision : 23.09.2025

Karan @ Karan Thapar & Ors**...Petitioners****VERSUS****State of Punjab****...Respondent****CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present: Mr. J.S. Ghumman Advocate
for the petitioners.

Mr. Kamalpreet Bawa, DAG Punjab.

AARADHNA SAWHNEY, J. (ORAL)

Having invoked the provisions of Section 397 Cr.P.C, the petitioners, who are accused in FIR No.15 dated 16.02.2023 registered against them for commission of offences punishable under Sections 452,148,149,427,506 IPC (Section 304 and 201 IPC added later on) at P.S Basti Bawa Khel, Jalandhar have preferred the instant revision petition, praying for setting aside the impugned order dated 11.09.2025 passed by learned Sessions Judge, Jalandhar, dismissing their application for discharge under Section 304 IPC.

2. Brief facts leading to the present case in nutshell are that at about 06.30 pm on 15.02.2023, when the complainant-Manish Kumar Padam along with his brother Anil Kumar Padam had gone to Bhargo Camp for some work, he received a telephonic call from his wife Pooja that Ashok Thapar, Arjun Thapar, Karan Thapar, Rohit Thapar, Vansh Thapar, Vishu Sahota, Bindu, Kush Sabharwal, Jatin Thapar and Sanjiv Kumar Thapar, armed with sharp edged weapons and baseball bat had entered their house and were damaging the doors of the house besides threatening them with dire consequences. Thereupon, he and Anil Kumar

Padam came home and found the said assailants damaging the main gate with sharp edged weapons and also saw them pelting bricks. The gate was bolted from inside by his brother Tarun Kumar, who was unmarried and was living with them. On seeing them, all the accused attacked them with sharp edged weapons, upon which his brother Tarun Kumar opened the gate of the house, when one of the accused pelted brick towards him, which hit him on his chest, consequent thereto he fell down on the ground. Thereafter, all the assailants fled from the spot with their respective weapons.

On the basis of said complaint, a formal complaint vide FIR No.15 dated 16.2.2023 was registered against Vishant and others, under Section 304,452,148,149,427,506 IPC (P.S. Basti Bawa Khel, Jalandhar).

3. On completion of investigation, challan was initially presented in court of learned Judicial Magistrate, Jalandhar, who committed the same to the Court of Sessions as the offence under Section 304 IPC was exclusively triable by the Court of Sessions. Thereafter, an application for discharge of accused under Section 304 IPC was filed. The same came to be dismissed vide the impugned order dated 11.09.2025.

4. Learned counsel for the petitioner submits that no offence under Section 304 IPC is made out against the petitioner. The allegations in the FIR are nothing but an afterthought, levelled only to falsely implicate the entire family of the petitioners. In fact, the deceased Tarun Kumar had suffered a heart attack and was taken to the Tagore Hospital where he breathed his last. Learned counsel contends that during post-mortem examination of the deceased, no internal or external injury was found on the body of the deceased. In the report, Board of doctors opined that **the cause of death** in the present case is 'myocardial infraction' i.e heart attack. In view of the same, learned trial Court while dismissing the application gravely erred in not appreciating the relevant material

placed before it. In support of his submissions, learned counsel has placed reliance upon following judgments of Hon'ble Supreme Court :

“1. State of Bihar vs. Ramesh Singh, 1977 AIR (SC) 2018;

**2. Union of India vs. Prafulla Kumar Samal and another,
1979 AIR (SC) 366;**

5. I have heard learned counsel for the petitioner and perused the paper book.

6. Law is well settled that at the stage of framing charge, only prima facie case is to be seen. Meticulous evaluation of evidence is not required. In **Prafulla Kumar's case (supra)**, Hon'ble Supreme Court while discussing the scope and ambit of Section 227 Cr.P.C, held as follows:

“(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.”

Adverting to the facts of the case in hand, allegations levelled by the complainant in the complaint have already been noted hereinabove. According to him, his brother was assaulted by the accused party who as a result thereof passed away. The post-mortem report in which the Board of Doctors have opined that Tarun Kumar died due to *myocardial infraction* has also been looked into. The Court is of the opinion that post-mortem report by itself, cannot be made the sole basis for discharge of the accused. While deciding the case on merit, following questions would have to be adjudicated upon:

- “1. Whether the deceased was actually assaulted by the accused party?
2. If yes what offence has been committed by them?
3. Whether the deceased died due to injuries suffered in the incident?”

These questions can be adjudicated upon only after the parties lead their respective evidence and are thus a matter of trial. Post-mortem report cannot be made the sole basis for discharge of the accused.

7. It has rightly been observed by learned trial Court that the fact as to whether the version given by the eye witnesses is correct or not in the light of postmortem report and opinion with regard to cause of death can be adjudicated upon only during trial. No other relevant material has been produced on record to differ with the finding recorded by the learned trial Court. The trial is at initial stage and therefore no ground is made out to entertain the petition in the absence of cogent evidence.

8. Questions that would need adjudication are as to whether the incident occurred in the manner as portrayed by the complainant. If yes, what was the nature of offence committed as also whether the accused had any knowledge in

this regard. All these questions can be answered only when the parties lead their respective evidence.

9. Finding no merit in the present petition, the same is dismissed as premature.

(AARADHNA SAWHNEY)
JUDGE

23.09.2025

manoj

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>