



CRR-1051-2014(O&amp;M)

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

**CRR-1051-2014(O&M)  
Reserved on: 07.05.2025  
Pronounced on: 08.05.2025**

**Mahesh Chander****... Petitioner****Versus****Renu @ Doli****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Vivek Aggarwal, Advocate  
for the petitioner.Mr. Vineet Chaudhary, Advocate  
for the respondent.**\*\*\*****HARPREET SINGH BRAR, J.**

1. The present revision petition has been filed against order dated 07.03.2014 (Annexure P-5) passed by the learned Additional Sessions Judge, Ambala vide which the order dated 11.06.2010 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Ambala, discharging the petitioner, was set aside, in the case stemming from criminal complaint No. 29-1 of 2002 dated 23.10.2002/18.04.2009 under Sections 452, 380, 503, 34 IPC.

2. Briefly, the facts, as alleged, are that the respondent-complainant is the step-mother of the petitioner. The father of the petitioner died on the intervening night of 28/29.03.2001. On 29.03.2001, the petitioner along with 9-10 other persons, forcibly entered the house of the respondent and attacked her. They took away all the household articles as well as cash and gold ornaments. All this material was loaded in a Tata Sumo and a tractor-trolley. The petitioner also kicked her out of her place of residence and took illegal possession of the same. However, with the intervention of the panchayat, the



respondent regained possession over the house but the articles stolen are yet to be returned.

3. Learned counsel for the petitioner *inter alia* contends that the respondent-complainant was not the wife of the deceased father of the petitioner but a servant. In fact, Kanta Devi is the wife of the deceased, who is still alive. The respondent has failed to prove her marriage in terms of the Hindu Marriage Act, 1955. Moreover, in her cross-examination, the respondent admitted to working at the house of the petitioner but could not recall the salary she was getting. Further, nothing has been brought to the fore regarding ownership of the respondent on the allegedly stolen articles. Even the Will dated 13.02.1999 stands unproven in terms of Indian Succession Act, 1925 relied upon by her to prove her ownership over the house has been declined by the learned Additional District Judge, Ambala vide judgment dated 07.03.2014. Additionally, the petitioner never submitted a document (Ex. R13) attesting to the respondent living in the said house, at any stage of the trial.

4. He further submits that in the FIR No.59 dated 27.06.2001 registered by the respondent on the same set of allegations led to presentation of a cancellation report, which was accepted by the concerned Court. Till date, the respondent has not objected to the same or filed a protest petition, in spite of being present in Court when the cancellation report was presented. Thus, continuation of proceedings against the petitioner would amount to double jeopardy. Lastly, there are material contradictions between the respective statements made by the respondent and CW2-Rakesh Kumar, during pre-charge evidence. While the respondent claimed that the alleged incident occurred before the cremation of the father of the petitioner, CW2- Rakesh Kumar has stated that it occurred on the next day. As such, the learned lower



Revisional Court has erred in setting aside the order of discharged passed on correct appreciation of the facts and the law by the learned trial Court. Reliance in this regard is placed on the judgment rendered by the Hon'ble Supreme Court in *Poonam Chand Jain and another vs. Fazru (2010) 2 SCC 631* and this Court in *Balbir Singh vs. Gurdip Singh 1997(2) R.C.R. (Criminal) 337*, *Surinder Kumar alias Palu Singh vs. Jagdish Lal 1982(2)R.C.R.(criminal) 137* and Delhi High Court in *State vs. Rupinder Kumar and another 2008(1) R.C.R.(Criminal) 493*.

5. Per contra, learned counsel for respondent has vehemently opposes the prayer of learned counsel for the petitioner.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the entire alleged occurrence took place around the time of death of the father of the petitioner namely Om Prakash. The petitioner is alleged to have trespassed into the house where his deceased father was residing along with the respondent. Curiously, during her cross-examination, the respondent had admitted to be a house help therein. As such, in order to frame charges, it becomes vital that a *prima facie* case establishing her ownership over the house and the articles is made out.

7. The edifice of the case of the respondent is built on the Will dated 13.02.1999, whereby the deceased has allegedly bestowed the house and the articles therein onto her. However, a perusal of the judgment dated 07.03.2014 (Annexure P-2) passed by the learned Additional District Judge, Ambala would indicate that the Will dated 13.02.1999 is shrouded in suspicion. As such, it cannot be said if the respondent truly has any right over the property or is it an attempt at squatting. The presence of the respondent in the house, when the



health of the deceased stated deteriorating, is inconsequential at this stage. Moreover, the document (Ex. R13) relied upon by the learned Court below to conclude that the respondent and her family were living with the deceased, does not exist on the record.

8. Further, a cancellation report already stands presented and accepted in the case stemming from FIR(supra), which was registered on identical allegations as made in the complaint(supra). At no point in time did the respondent file a protest petition or register her distrust in the same, which has attained finality. Since the petitioner has already been exonerated on investigation once, it would be a violation of his fundamental rights to put him through a second trial on the same allegations as Article 20(2) of the Constitution of India categorically forbids double jeopardy. The same is reproduced below:

***Article 20- Protection in respect of commission of offences***

xxx

xxx

xxx

*(2) No person shall be prosecuted and punished for the same offence more than once.*

9. Further, a two Judge bench of the Hon'ble Supreme Court *in T.T. Antony vs. State of Kerala (2001) 6 SCC 181* has conclusively held that a second FIR pertaining to the same occurrence cannot be registered. Speaking through Justice Syed Shah Mohammed Quadri, has opined as follows:

*“20. The scheme of the Criminal Procedure Code is that an officer in charge of a Police Station has to commence investigation as provided in Section [156](#) or [157](#) of Criminal Procedure Code on the basis of entry of the First Information Report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of evidence collected he has to form opinion under Section [169](#) or [170](#) of Criminal Procedure Code, as the case may be, and forward his report to the concerned Magistrate under Section [173\(2\)](#) of Criminal Procedure Code **However, even after filing such a report if he comes into possession of further information or material, he need not register a***



***fresh FIR**, he is empowered to make further investigation, normally with the leave of the court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of Section 173 Criminal Procedure Code, 1973.*

*21. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of Criminal Procedure Code only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 Criminal Procedure Code, 1973 **Thus there can be no second F.I.R. and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences.** On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the F.I.R. in the station house diary, the officer in charge of a Police Station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 of the Criminal Procedure Code.” (emphasis added)*

10. The property and personal disputes aside, the presence of the petitioner at the house of his father on the day of his last rites is completely justified. It would be against objective standards of reason and justice to term the same as trespass, especially in absence of any material proving any right of the respondent over property owned by his deceased father.

11. The law on the issue with regard to the nature and degree of evaluation of the evidence presented by the investigating agency before the trial Court at the time of framing of charge is well settled. The trial Court at this stage is only to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the offence alleged. At the stage of formation of opinion under Sections 227, 239 and 240 of Cr.P.C, the trial Court is not required to weigh the probative value of the material brought on record in the golden scale or to presume the prosecution story as gospel



truth. The nature and degree of evaluation at this stage is limited to determine whether a prima facie case exists depending upon the facts of each case and as such, there is no requirement to go deep into the probative value of material on record. The trial Court is only required to evaluate whether there is a ground for presuming that the accused has committed the offence. The adequacy and sufficiency of the evidence is not to be considered at this stage. The veracity of the evidence can only be evaluated during the trial. In view of the legal literature and judgmental law on this issue, it could be safely concluded that at the stage of forming an opinion under Section 227, 239 and 240 of Cr.P.C, the learned trial Court is required to evaluate the material only with a purpose to ascertain whether the facts emerging from the record if taken at their face value disclose the existence of all the ingredients constituting the offence. The discharge of the accused is only permissible when the case set up by the investigating agency in the final report filed before the trial Court under 173 of Cr.P.C. has no basis or foundation. The trial Court cannot consider the probable defence of the accused in the case at this stage.

12. The Hon'ble Supreme Court has *in extenso* laid down the principles for the purpose of framing of charges in ***P.Vijayan vs. State of Kerala (2010) SCC 398***. Recently, the Hon'ble Supreme Court examined the same in ***State through Deputy Superintendent of Police vs. R.Soundirarasu etc. 2023 (2) RCR Criminal 206*** and reiterated that the primary consideration at this stage of framing of charges is the test of existence of a *prima facie case* and the probative value of the material available on record is not to be gone into. It was further held that the discharge of the accused under Section 239 of Cr.P.C is permissible only when the case set up by the prosecution after the completion of investigation is found to be groundless. Reliance in this regard



can also be placed on the judgment rendered by this Court in *Narinder Sharma vs. State of Punjab* in CRM-M-57578 of 2023 decided on 21.11.2023.

13. In view of the discussion above, this Court is of the considered opinion that the learned Court below erred in reversing the findings of the learned trial Court and the continuation of the present proceedings would amount to an abuse of the process of law. Accordingly, the present petition is allowed and order dated 07.03.2014 (Annexure P-5) passed by the learned Additional Sessions Judge, Ambala is hereby set aside. Consequently, the petitioner stands discharged in the case stemming from criminal complaint No. 29-1 of 2002 dated 23.10.2002/18.04.2009 under Sections 452, 380, 503, 34 IPC.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**08.05.2025**

*Ajay Goswami*

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