



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

CRR-870-2025

Date of decision: 01.04.2025

VIKRANT RANA @ SHANKAR

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Singh Jattan, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is filed against the order dated 04.03.2025 passed by learned Additional Sessions Judge, Yamuna Nagar (Trial Court), whereby the charge under Section 302 of Indian Penal Code has been framed against the petitioner.

2. The brief facts of the case leading to the filing of the present petition is that the police of Police Station Chappar, District Yamuna Nagar have registered an FIR No. 387 dated 10.11.2023 under Sections 304 and 328 Indian Penal Code and 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill 2020) on the statement of Mohit Kumar regarding death of his father Jagmal and other person namely Anil Kumar due to drinking spurious liquor. Later on two other persons namely Sushil Kumar, Paramjeet Singh were also allegedly died and one person namely Chander Bhan suffered illness due to consumption of spurious liquor. It was alleged in the FIR(supra) that 04 individuals consumed the spurious liquor leading to their deaths. During investigation, offence under Sections 120-B, 302, 201, 307 of IPC



have been added by the police and Section 304 of IPC has been deleted from the FIR(supra).

3. Learned counsel for the petitioner *inter alia* contends that learned trial Court has fallen into grave error by framing the charge under Section 302 of Indian Penal Code, because, as per the case set up by the prosecution, the petitioner is alleged to have supplied the spurious liquor. The necessary ingredients of intention and knowledge to constitute the aforementioned offence is not available on record. Learned trial Court has misread the evidence and wrongly framed the charge under Section 302 of Indian Penal Code, as there is no material to justify the charge under the aforementioned Section. Additionally, mere supply of spurious liquor without knowledge of its fatal nature, would not be sufficient to attract the provision under Section 302 of IPC. At the best, it is a case of Sections 304 and 328 of IPC.

4. *Per contra*, learned State counsel appears on advance notice opposes the prayer made by the petitioner on the ground that at the time of framing of charges only *prima facie* view is to be taken and the probative value of the material is not to be gone into and further the probable defence of the petitioner cannot be taken into consideration at the time of framing of charges. In the present case, on account of consumption of spurious liquor provided by the petitioner, 04 people have died and whether the offence under Section 302 of IPC is made out or not against the petitioner, would be seen by the trial Court, at the time of final disposal of the case.

5. I have heard the learned counsel for the parties and gone through the case file with their able assistance.

6. 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 Section 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.

7. 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 issue involved in the present case in *State through Deputy Superintendent of Police Vs. R.Soundirarasu etc. 2023 (2) RCR Criminal 206* where a two Judge Bench,

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speaking through Justice J.B. Pardiwala, 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.

8. Accordingly, present petition stands dismissed being bereft of any merit.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.

April 01, 2025

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |