



2026:AHC-LKO:43893

HIGH COURT OF JUDICATURE AT ALLAHABAD AFR
LUCKNOW

CRIMINAL REVISION No. - 340 of 2026

Mohd. Shafeeq @ Raja

.....Revisionist(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Of Home
Lko. And Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Desh Ratan Mishra
Counsel for Opposite Party(s)	:	G.A., Mohd. Shahid Akhtar

Reserved on 07.04.2026

Pronounced on 07.07.2026

Court No. - 31

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. Heard learned counsel for the revisionist, learned AGA for the State respondent no.1 and learned counsel appearing for the respondent no.2, the complainant and pursue the record.

2. By means of instant criminal revision, the accused revisionist has prayed for setting aside the impugned order dated 25/02/2026 passed by learned Additional Sessions Judge, FTC (New) Sitapur whereby learned Additional Sessions Judge, FTC (New) Sitapur rejected the discharge application of the revisionist in ST No.64 of 2025, arising out of case crime no.394 of 2023, under Sections 498-A, 323, 504, 506 and 316 IPC, Police Station Laharpur, District Sitapur whereby application for discharge of revisionist has been rejected.

on her application under Section 156(3) Cr.P.C filed before the Court bearing date 18/08/2023 with allegation that she was married with the revisionist on 27.11.2022. However, her husband and in-laws were not happy with the dowry and gifts obtained in the marriage. They were demanding Rs. 2 lakh as additional dowry and due to non-fulfillment of demand of dowry, her husband surreptitiously married a woman, namely Najrin Bano and took her at his home; the complainant raised objection to this, whereupon on 11/06/2023, opposite party, Mohd. Sadab, the elder brother of her husband and his family members badly gave beating to her by kicks, fists and kept her as hostage in the house. She anyhow informed her parents and her family members reached there and got her rescued from the clutches of accused persons. On 02/07/2023 at 4:00 PM, accused persons visited at her parental place when she was alone in the house and stated that they had come for compromise. She stated that she declined to enter into any compromise in absence of her family members. The accused persons got infuriated to this and on exhortation of accused Mohd. Sadab and Dilshad, the accused persons committed rape on her by pointing weapon on her and creating apprehension of her life. The complainant narrated this incident to her family members when they came back to the house, she made every effort to get her FIR lodged, but police did not take any action and ultimately she moved an application before the court for lodging an FIR against the accused persons.

4 The factual matrix of the case in brief is that the FIR in respect of the

family members badly assaulted her by kicks, fits and clubs and sticks, due to which she suffered many injuries on her person.

5. Thus, according to the version of informant, the incident dated 11/06/2023 occurred at her matrimonial home and the second incident dated 02/07/2023 in respect of second FIR was lodged regarding which FIR in Case Crime No.284 of 2023 was lodged by her, which took place at her parental place on 02/07/2023. In the FIR dated 01/09/2023 her husband is not named. The complainant in her statement under Section 161 CrPC dated 12/06/2023 supported her FIR version and stated that she will get her x-ray done at District Hospital, Sitapur.

6. However, in her supplementary statement dated 02/07/2023, she stated that in occurrence dated 11/06/2023, her husband kicked her several times on her abdomen, knowing that she was pregnant, due to which she was suffering from pain all over her body and abdomen. She got her FIR lodged on 12/06/2023 and police got her medico legal examination done on 12/06/2023 and thereafter she was referred to District Hospital, Sitapur. In the intervening night of 13/14/06.2023, she suffered excessive pain in her abdomen and she got miscarriage and her fetus got miscarried. Her family members took her to Women's Hospital on 14/06/2023 where her ultrasound and treatment was carried out.

7. In her medical legal examination dated 12/06/2023 at 1:10 PM, one contused swelling over right shoulder, one contused swelling over left

14/623 missed abortion, D&C not done, No live tissue, Bleeding P/V present since 14/6/23. Advice USG of uterus and Adenexa. Supplementary report awaited.

8. In supplementary report dated 02/07/2023, urine pregnancy report was negative. There was normal ultrasonography of abdomen with free fluid in POD, Pelvic inflammatory disease.

9. The police submitted charge sheet against the revisionist after investigation under Sections 498A, 323, 504, 506 and 316 IPC, Police Station Laharpur, District Sitapur against the revisionist.

10. The revisionist moved discharge application before the Court of Session, Sitapur under Section 227 CrPC on 07/04/2025 on the ground that in FIR the complainant has made allegations of demand of dowry against accused applicants. However, after investigation, the police submitted charge sheet against four persons, namely, applicant, his father Mukhtar, mother Mehsher Jahan and one Nazreen Bano, as complicity of other accused persons was not found in the offense. These three co-accused persons have already filed a petition under Section 482 CrPC before the High Court in which proceedings of trial court were stayed and the matter is pending for final adjudication.

11. The complainant, in her earlier statement under Section 161 CrPC, did not raise any allegation that her husband had kicked in her abdomen due

complainant, no boney injury was found. Furthermore, in the doctor's statement recorded during investigation, it is stated that while some swelling and fluid were detected outside of uterus, there was no conclusive evidence of miscarriage. The ultrasound examination was conducted after 15 to 16 days of the alleged incident, making it difficult to draw any firm medical conclusion. The allegation of miscarriage is not supported by any medico evidence. She later claimed that her husband contracted second marriage, although this is nowhere mentioned in the FIR dated 12/06/2023, and this allegation is after thought. The complainant had made a false FIR under Sections 498-A, 376-D, 323, 504, 506 IPC and 3/4 DP Act against her husband and his brothers and four others, in which the police submitted final report and exonerated all the five named accused persons. This shows that the complainant is in the habit of lodging false FIRs. The alleged offenses are not made out against applicant-accused.

12. The trial court has heard both sides on discharge application, 9Kha, and dismissed the same by impugned order dated 25/02/2023 and fixed the case for framing of charge.

13. Learned counsel for the revisionist submitted that charge under Section 316 IPC is not substantiated by medico legal evidence and learned trial court has given a wrong finding in respect of said charge under Section 316 IPC.

dismissed the discharge application in a mechanical manner without addressing the grounds taken therein in the right perspective. The doctor has stated in supplementary report of the complainant that on the basis of clinical examination and investigation report, urine pregnancy test is negative and USG normal seen. The informant has filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act against revisionist and his family members on 07/07/2023, only to harass them on the basis of concocted version and there is no allegation in the FIR or in the first statement under Section 161 Cr.P.C. of the informant against the revisionist regarding causing blow on her abdomen by kicks which latter resulted in miscarriage. Even ingredients of charge under Section 316 Cr.P.C. are not attracted in the case.

15. This Hon'ble Court has enlarged the revisionist on anticipatory bail by order dated 05/09/2023 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 1929 of 2023 with observation that *"Having considered the aforesaid facts and circumstances of the case prima facie it appears from the material available before the Court that there is serious matrimonial dispute between the applicant and the informant regarding which several litigation have been initiated from both the sides. As per version of the informant herself the applicant has married co-accused Nazreen, although this fact has not been disclosed in the FIR. Although the informant has stated in her additional statement that the applicant had hit on her abdomen knowing fully well that she is*

applicant also would not be in a position to know about her pregnancy. Allegation of causing miscarriage is not supported by medico legal examination report".

16. Learned AGA and learned counsel for the respondent submitted that there is no illegality, irregularity or propriety in the impugned order passed by the learned trial court while dismissing the discharge application filed by the revisionist. The impugned order is speaking and well-reasoned order in which all the aspects of the case are duly considered and no interference is called for in the impugned order.

17. They also submitted that at the stage of consideration of prayer for discharge or framing of charge and meticulous examination of evidence collected during investigation is not permitted. The victim has stated in her supplementary statement that the revisionist gave blows on her abdomen due to which she sustained internal injury and later on got miscarried of her pregnancy. He was aware of her pregnancy at the time of incident dated 11/06/2023. Her first medico legal examination was conducted on 12/06/2023 at 1 PM and at that time, she might not have been aware of internal injury to her fetus. Later on 13/14/06.2023 she suffered miscarriage due to acute abdominal pain. Her family members produced her before female doctor who treated her and her ultrasound was done. Dr. Dipali Jaiswal of PHC, Manva, Sitapur has treated her on 02/07/2023 and has observed that per vaginal bleeding was present since

normal USG of abdomen with free fluid seen in POD, Pelvic Inflammatory Disease. This symptom suggests that she suffered miscarriage prior to her ultrasound. Inasmuch as Dr. Indra Singh, Radiologist, who conducted USG ultrasonography of the victim/complainant has stated in his statement under Section 161 CrPC that outside the uterus, fluid and swelling was seen in POD area. The situation of miscarriage was not clear. He has stated that presence of these fluid and swelling could have been present due to assault. Dr. Dipali Jaiswal, the lady doctor, has also stated in her statement under Section 161 CrPC that LMP of the victim occurred on 05/02/2023 as per her statement and 14/06/2023 she suffered miscarriage and on that day she was bleeding. This might have occurred due to abortion / miscarriage. The presence of free fluid and swelling in POD area of uterus may also occur due to miscarriage.

18. With above submissions, learned counsel for the respondent submitted that on the basis of medical evidence and statements of the doctors before Investigating Officer, it cannot be said that the medical evidence is not supportive of the case of miscarriage of her fetus due to kicks and blows given to her by her husband, is not supportive of her case with regard to Section 316 IPC.

19. Learned counsel for the revisionist has placed reliance on a judgment of this Court in **Julius Masih versus State of U.P. and another, 2024**

the case and the documents submitted therewith and after hearing the submissions of the accused and prosecution in this behalf, the judge considers that there is no sufficient grounds for proceeding against the accused. The law is well settled in Union of India vs. Prafulla Kumar Samal and Another (1979) 3 SCC 4 that if the court comes to the conclusion of strong prima facie case or strong suspicion, the charges will be framed. At the stage of framing of charge the court has the power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case is made out against the accused. However, the court is not supposed to delve deeply into the materials of the matter. Thus, at the time of framing of charge, the court is not supposed to look into the evidence of the case in detail and is only to consider whether there is strong suspicion against the accused."

20. So far as law of discharge is concerned, discharge is a pre-trial termination of proceedings due to a lack of foundational material or insufficient evidence even for framing of charge. Conversely, an acquittal is post trial outcome rendered after evaluating evidence in a full trial. A person after discharge is saved from being subjected to rigors and harassment of a criminal trial in the first place. A discharge signifies an absolute lack of evidence at the threshold in respect of the alleged charge.

ingredients of the alleged offense. In this decision Hon'ble Court reiterated and strengthened the principle laid down in leading case **Union of India vs. Prafull Kumar Samant (1979) 3 SCC 4**. Hon'ble Court disapproved the approach of the High Court which had discharged an accused under the Prevention of Corruption Act by scrutinizing the conversation transcripts in detail and concluding that the prosecution case was weak.

22. This Court in a reported judgement in Criminal Revision No.604 of 2019, delivered on 06/01/2023 in **Melvin Saldanha And Anr. vs State Of U.P. And Another** cited judicial authority of Hon'ble Supreme Court in paragraphs 72 to 76 which are quoted as under:

*"72. That Hon'ble Supreme Court in the case of **State of Bihar Vs. Ramesh Singh (1977 AIR 2018)** which explaining the scope of the sections 227 and 228 CrPC observed:*

"Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the

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."

73. That the essential principles of Section 227 CrPC were duly summarized by the Hon'ble Supreme Court in the case of **Union of India Vs. Prafulla Kumar Samal & another, 1979 AIR 366,:**

"(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.

74. That the Hon'ble Supreme Court has elaborated the scope of enquiry under Section 227 CrPC in the case of **Stree Atyachar Virodhi Parishad.Vs. Dilip Nathumal Chordia & anr., 1989 SCC (1) 715**, which says:

"Sec. 227 itself contains enough guidelines as to the

be determined and not at the time of framing of charge. The Court, therefore, need not undertake an elaborate enquiry in sifting and weighing the material. Nor it is necessary to delve deep into various aspects. All that the Court has to consider is whether the evidenciary material on record if generally accepted, would reasonably connect the accused with the crime. No more need be enquired into."

75. *That the Hon'ble Supreme Court in the aforementioned case further says:*

"We wish to add a word regarding interference by the High court against a charge framed by the Sessions Court. Section 227 which confers power to discharge an accused was designed to prevent harassment to an innocent person by the arduous trial or the ordeal of prosecution. How that intention is to be achieved is reasonably clear in the section itself. The power has been entrusted to the Sessions Judge who brings to bear his knowledge and experience in criminal trials. Besides, he has the assistance of counsel for the accused and Public Prosecutor. He is required to hear both sides before framing any charge against the accused or for discharging him. If the Sessions Judge after hearing the parties frames a charge and also makes an order in support thereof, the law must be allowed to take its own course. Self restraint on the part of the High Court should be the rule unless there is a glaring injustice stares the Court in the face. The opinion on any matter may differ depending upon the person who views it. There may be as many opinions on a particular matter as there are courts but it is no ground for the High Court to interdict the trial. It would be better for the High Court to allow the trial to proceed."

76. *On the other hand, Sri Sarvajeet Dubey, learned counsel for respondent No 2 has relied on the judgment of Supreme*

this Court should apply the principle if the entire evidence produced by the prosecution is to be believed, would it constitute an offence or not. Relevant paragraph-21, 22, 24, 25 and 26 of the said judgment are reproduced hereinbelow:

"21. The law is well settled that although it is open to a High Court entertaining a petition under Section 482 of the CrPC or a revision application under Section 397 of the CrPC to quash the charges framed by the trial court, yet the same cannot be done by weighing the correctness or sufficiency of the evidence. In a case praying for quashing of the charge, the principle to be adopted by the High Court should be that if the entire evidence produced by the prosecution is to be believed, would it constitute an offence or not. The truthfulness, the sufficiency and acceptability of the material produced at the time of framing of a charge can be done only at the stage of trial. To put it more succinctly, at the stage of charge the Court is to examine the materials only with a view to be satisfied that prima facie case of commission of offence alleged has been made out against the accused person. It is also well settled that when the petition is filed by the accused under Section 482 CrPC or a revision Petition under Section 397 read with Section 401 of the CrPC seeking for the quashing of charge framed against him, the Court should not interfere with the order unless there are strong reasons to hold that in the interest of justice and to avoid abuse of the process of the Court a charge framed against the accused needs to be quashed. Such an order can be passed only in exceptional cases and on rare occasions. It is to be kept in mind that once the trial court has framed a charge against an accused the trial must proceed without unnecessary interference by a superior court and the entire evidence from the prosecution side should be placed on record. Any attempt by an accused for quashing of a charge before the entire

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 the 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 Code of Criminal Procedure.

24. It is useful to refer to judgment of this Court in Amit Kapoor and Ramesh Chander, (2012) 9 SCC 460, where the scope of Section 397 CrPC has been succinctly considered and explained. Para 12 and 13 resply are as follows:

"12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinize the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law

own merits.

"13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforestated. Even framing of charge is a much advanced stage in the proceedings under the CrPC."

25. The Court in para 27 has recorded its conclusion and laid down the principles to be considered for the exercise of jurisdiction under Section 397 particularly in the context of quashing of charge framed under Section 228 CrPC. Paras 27, 27(1), (2), (3), (9), (13) resply are extracted as follows:

"27. Having discussed the scope of jurisdiction under these two provisions, i.e., Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best, and upon objective analysis of

482 of the Code or together, as the case may be:

27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

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.

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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

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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...."

26. This Court in the case of Chitresh Kumar Chopra v. State (Government of NCT of Delhi), reported in (2009) 16 SCC 605, observed in para 25 as under:

"25. It is trite that at the stage of framing of charge, the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for "presuming" that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction. (See: Niranjana Singh Karam Singh Punjabi & Ors. Vs. Jitendra Bhimraj Bijja & Ors, (1990) 4 SCC 76)."

application, I am of the considered opinion that this is not a case in which the charge against the revisionist is found to be groundless and the revisionist is liable to be discharged under Section 227 Cr.P.C. from the charges leveled against him with regard to which cognizance has been taken by learned trial court. This is trite law that meticulous examination of evidence collected during investigation is not permissible at the stage of considering discharge application or framing of charge as provided under Section 227/228 Cr.P.C. No mini trial is permitted to be held at the stage of framing of charge. The accused revisionist shall have opportunity to assail the prosecution case through cross-examination of prosecution witnesses as well as by defence evidence if he seeks to adduce.

24. I find no illegality, irregularity or perversity in the impugned order passed by learned trial court whereby the discharge application filed by the revisionist has been dismissed. Revision is without force and deserves to be dismissed.

25. However, it is clarified that the observations made here in above are only for the purpose of disposal of present revision and will have no bearing on merits of the case and trial court will have liberty to form independent opinion about the merits of the prosecution case vis-à-vis defence version at the stage of conclusion of trial.

26. The criminal revision is **dismissed** with above observations.