2026 INSC 1032

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.4092 OF 2026

ANTONETTO J D'SOUZA **APPELLANT**

VERSUS

ALDILA BRAGANZA AND OTHERS **RESPONDENTS**

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. The first respondent-accused having been discharged for the offence punishable under Sections 468, 471 and 420 of the Indian Penal Code[1], the appellant-informant has challenged the same in the present proceedings.

2. The informant and the accused are neighbours. The accused along with her father-in-law, who was then alive, had undertaken construction pursuant to License No.20/72 dated 13.04.1971 issued by Mapusa Municipal Council. According to the informant, the structure erected by the accused and her father-in-law was illegal. The accused and her father-in-law had relied upon a plan

[1] For short, 'the Penal Code'

that had been interpolated and was a forged copy of the original approved plan drawn by Mr. Agnelo Mascarenhas. The informant, therefore, filed a complaint with the Goa Coastal Zone Management Authority. A notice was issued by the said authority to the accused, who filed their reply. The informant, thereafter, on 05.07.2012 lodged a report with Calangute Police Station. A First Information Report was, accordingly, registered on 18.07.2012 for the offence punishable under Sections 468, 471 and Section 420 read with Section 34 of the Penal Code.

3. The accused along with her father-in-law approached the Sessions Court for grant of anticipatory bail. Say of the Police authorities was called and in its reply dated 14.03.2013, the Police Sub-Inspector while opposing the prayer for anticipatory bail submitted that custodial interrogation of the accused was necessary for recovering the original plan as well as the forged plan. The Sessions Court, however, on 19.06.2013 granted anticipatory bail to the accused and her father-in-law by imposing conditions.

4. On completion of investigation, a final report was filed on 02.04.2016. As per the same, it was stated that the accused and her father-in-law in furtherance of their common intention had forged a copy of the original plan and submitted the same as genuine in the office of the Goa Coastal Zone Management Authority. The accused were then heard by the learned Judicial Magistrate First Class[2] before framing of the charge. It was urged on behalf of the accused that without recovering the original plan and the forged plan, the chargesheet had been filed against them. In absence of original documents, the chargesheet itself was not maintainable and, thus, no charge could be framed. The learned Magistrate, however, was not convinced by the aforesaid contention and by his order dated 21.12.2017 held that there was *prima facie* material on record to frame charge against the accused.

5. Being aggrieved, the accused filed a revision application under Section 397 of the Code of Criminal Procedure, 1973[3] raising a challenge to the order passed by the Magistrate. During pendency of the revision application, the accused approached the High Court of Bombay at Goa by filing Criminal Writ Petition No.458/2020 (re-numbered as 80/2023), raising a challenge to First Information Report No.152/2012 as well as the chargesheet filed before the learned Magistrate. The High Court noted that the discharge application filed by the accused was rejected by the trial

[2] For short, 'Magistrate'
[3] For short, 'the Code'

Court in 2017 while a challenge to it was raised in 2020. In the meanwhile, the revision application preferred by the accused had been dismissed by the Sessions Court on 28.12.2021. The order passed by the revisional Court had not been challenged in the writ petition. In that view of the matter, the High Court declined to interfere with the order passed by the learned Magistrate and rejected the writ petition on 31.10.2023. During pendency of the said proceedings, the father-in-law of the accused expired and, hence, the proceedings abated against him. The charges were, accordingly, directed to be framed against the accused.

6. The accused, thereafter, filed Criminal Writ Petition No.346/2024 again raising a challenge to the orders passed by the learned Magistrate framing charge as well as the order passed by the Sessions Court rejecting the revision petition filed by her. It was yet again urged before the High Court that the original plan had not been placed on record to indicate that the accused had forged the same. Merely on the basis of photocopies of the plan, the charge would not be proved. This contention made on behalf of the accused found favour with the High Court. It held that for establishing the ingredients of the offence alleged, it must be shown that the original document had been forged. The chargesheet ought to indicate that copy of the plan produced by the accused along with her reply was a forged document. Since the investigating agency failed to attach the original plan to the chargesheet to establish that such original plan existed and that its copy was thereafter altered and presented, proceeding with the trial would be of no consequence. Since the basic documents on which the case of the prosecution rested were missing and only on the basis of suspicion the case was being prosecuted, the same was not sufficient to frame charge against the accused. For these reasons, the order passed by the learned Magistrate as upheld by the Sessions Court was set aside. The accused was, thus, discharged for the offence punishable under Sections 468, 471 and 420 of the Penal Code. Being aggrieved, the informant has approached this Court.

7. Ms. Vrinda Grover, learned counsel for the informant submitted that the High Court exceeded its jurisdiction under Section 482 of the Code and interfered with the order passed by the learned Magistrate framing charge, which order was upheld by the Sessions Court. At the stage of framing of charge, the learned Magistrate was not required to make a roving inquiry with regard to the material on record and also examine the genuineness of the documents filed by the prosecuting agency. Whether the plan as submitted by the accused was forged was a matter of trial and at this preliminary stage, such inquiry was not permissible. The learned Magistrate as well as the Sessions Court having *prima facie* considered the prosecution material, which included the statements of the Engineer, who had prepared the plan, the same was sufficient to proceed with the trial against the accused. Referring to the earlier order dated 31.10.2023 passed by the High Court in Criminal Writ Petition No.80/2023, it was submitted that the High Court rightly did not interfere with the order framing charge. Despite rejection of the said writ petition, the accused filed another writ petition under Section 482 of the Code and sought to reagitate her prayers. Without noticing the earlier order, the High Court proceeded to discharge the accused. It was, thus, submitted that considering the orders passed by the learned Magistrate framing charge that was upheld by the Sessions Court, the High Court was not justified in interfering with the same and thereafter discharging the accused. It was, thus, prayed that the impugned order be set aside and the trial be permitted to proceed on merits.

8. The accused appeared in-person and supported the impugned order of the High Court. She submitted that since the original plan had not been placed on record along with the chargesheet, the view taken by the High Court was correct and it did not call for any interference. She referred to various documents on record including the stand of the prosecution that indicated that the original plan had not been recovered. In absence of the original plan being placed on record of the proceedings, the charge of forgery could never have been framed so as to try the accused. The learned Magistrate as well as the learned Judge of the Sessions Court failed to notice this basic infirmity. Nothing precluded the prosecution from securing the original plan and placing it on record along with the chargesheet. Though a period of almost fourteen years had passed since lodging of the First Information Report, the original plan had neither been traced nor recovered. Requiring the accused to face the trial in these circumstances amounted to abuse of the process of law. The order passed by the Sessions Court was not the subject matter of challenge in the earlier round of the proceedings. The High Court was, therefore, justified in exercising jurisdiction under Section 482 of the Code and discharging the accused. No interference with the impugned order was, thus, called for. She, therefore, submitted that the criminal appeal be dismissed.

9. We have heard the learned counsel for the appellant, the first respondent in-person as well as the learned counsel appearing for the second respondent. We have also perused the material on record that was placed before the trial Court as well as before the High Court. Having given thoughtful consideration to the entire matter, we are of the opinion that the High Court was not justified in quashing the order passed by the learned Magistrate framing charge and the order passed by the Sessions Court upholding that order.

10. The present proceedings have a chequered history. According to the informant, the accused and her father-in-law were his neighbours and they had undertaken construction of a structure, which the informant alleged was illegal. The building plan on which the accused and her father-in-law had relied upon had been interpolated and it was a forged copy of the original approved plan drawn by Mr. Agnelo Mascarenhas. On the basis of the informant's complaint dated 05.07.2012, a First Information Report was registered for the offence punishable under Sections 468, 471 and 420 read with Section 34 of the Penal Code. After the investigation was completed and the final report was filed, the learned Magistrate on 21.12.2017 heard the accused and her father-in-law and directed framing of charge for the offence punishable under Sections 468, 471, 420 read with Section 34 of the Penal Code. At this stage, it would be necessary to refer to the proceedings in Criminal Writ Petition No.458 of 2020 filed under Section 482 of the Code. The accused and her father-in-law challenged the First Information Report as well as the chargesheet in the said writ petition. It was their contention that the First Information Report did not disclose commission of any cognizable offence and that no documents were placed on record along with the chargesheet to frame charges. In the said criminal writ petition, the following prayers were made:

"**PRAYERS**

Under the circumstances, it is prayed that:

A. That the Hon'ble Court be pleased to:

(a) Cancel complaint dated 5/7/12;

(b) Quash and set aside FIR no. 152/2012 dated 18 July 2012 registered by Calangute Police Station, Calangute, Goa, and

(c) Quash and set aside Charge Sheet No. 41/2016, pending before the J.M.F.C at Mapusa.

B. For the Director General & Inspector General to initiate departmental enquiry into the matter of false FIR filed by the Calangute Police and submit the report to the Registrar General within one month from today.

C. For the State to file Affidavit /Compliance report by placing true facts, about the complaint letter, about the FIR registered in the said connection which further led to the Charge Sheet registered and place all the said documents being, the Complaint letter / FIR and Charge Sheet in its original before the Hon'ble Court at Mapusa.

D. For the State / Police department to pay cost of Rs.5,00,000/- to the petitioner, which costs to be recovered from the officers/ persons who are found guilty of the false complaint/ FIR/ Charge Sheet after enquiry.

> E. For costs of this Petition;
>
> F. Any other such order that this Hon'ble Court may deem fit."

11. During pendency of the said proceedings, the father-in-law of the accused expired. The writ petition was then amended and the accused placed on record subsequent events that had occurred in the meanwhile. The proceedings were re-numbered as Criminal Writ Petition No.80 of 2023. The Division Bench of the High Court by its order dated 31.10.2023 refused to interfere with the First Information Report and the chargesheet filed before the learned Magistrate. The observations in paragraphs 1, 4 and 13 to 18 of the said order being relevant are reproduced hereunder:

> "1. The petitioner is challenging the First Information Report No.152 of 2012 and the chargesheet filed before the Magistrate by respondent No.2, under Section 482 of CrPC on the ground that the FIR does not disclose any commission of cognizable offence and that no documents are placed along with the chargesheet to frame charges.
>
> 4. Ms. Braganza, the petitioner, strongly contended that there are no documents and, more specifically, the alleged plan placed on record along with the FIR or chargesheet in order to constitute offences as alleged of forgery, cheating, using forged documents, etc. The chargesheet also failed to disclose the relevant material, and therefore according to her, such proceedings are clearly an abuse of process of law and need to be quashed and set aside. She further submitted that an application was filed before the trial Court, thereby directing the investigating agency to produce the document/plan; however, the trial Court observed that in the absence of such documents, a charge cannot be framed.
>
> 13. As pointed out by the learned Counsel for the respondent, an order was passed on 21/12/2017 by the learned Magistrate and that too after hearing the arguments before the charge. In the said order, the learned Magistrate has considered the ingredients of sections as well as the documents placed along with the chargesheet and observed that the statements of the witnesses and the documents available on record *prima facie* prove that the second plan is forged

by superimposing the alteration on the copy of the approved plan to justify the illegal construction and the same was used as genuine before the Village Panchayat at Calangute. Accordingly, *prima facie* material is placed on record to frame charges against the accused persons for the offences under Section 468, 471, 420 r/w 34 IPC.

14. The present petition was filed in the year 2020 which is clear from the record. The amended petition shows that the trial Court rejected discharge application filed by the petitioner in the year 2017. Similarly, an appeal filed was also rejected by the Appellate Court. In paragraph 24(c)(amended), the petitioner claimed that Criminal Appeal No.11 of 2018 was filed challenging the order dated 21/12/2017 was rejected. It is her contention that the document in question which is supposed to be forged is neither in possession of the investigating agency nor with GCZMA nor with the Panchayat and therefore there cannot be any charge of forging such documents and prosecuting the petitioner on it.

15. The fact remains that there are observations of the learned Magistrate about a *prima facie* case made out for framing of charged, *vide* its order dated 21/12/2017. This order was challenged by the petitioner in Criminal Revision Application No.11 of 2018 before the Sessions Court. The Additional Sessions Judge, Mapusa, *vide* its decision dated 28/12/2021, dismissed the said revision and confirmed the order of the learned Magistrate directing to frame charges.

16. When two authorities dealing with the matter found that there are *prima facie* material/evidence/documents to frame charges against the petitioner, it would be improper on the part of this Court and that too under Section 482 of CrPC to upset such orders and that too on the allegations found in the petition.

17. The petitioner did not submit as to whether the order of the revisional Court upholding the order of the trial Court is challenged by her before the appropriate Court. Be that as it may, the material placed before the trial Court and, more specifically, in the chargesheet is found to be *prima facie* sufficient to frame charges. Once the Court dealing with the matter comes to such a *prima facie* conclusion, the accused therein has a right to challenge it either by filing a revision petition or other proceedings in accordance with law. The petitioner challenged the order of the trial Court by filing a revision petition but was considered unsuccessful. The said order of the revisional Court is not challenged in the present petition. Thus, while dealing with the powers under Section 482 of CrPC, we are not inclined to interfere with the judicial orders passed by the trial Court and that too after hearing the petitioner and on perusal of the contents of the charge sheet. This would be circumventing the settled procedure as laid down in CrPC as such a course is not available to the petitioner in this proceedings.

18. The material collected by the investigating agency is already produced along with the chargesheet; the trial Court as well as the revisional Court, found that such material is sufficient for the purpose of framing of charges. Thus, in sum and substance, the

> contention of the petitioner that the FIR is false and that there are no documents to prove the charge cannot be looked into in the present proceedings."

12. A reading of the aforesaid order would indicate that it was the principal contention of the accused that in the absence of the original plan being made part of the chargesheet, charge for the offence of forgery could not have been framed. This contention was dealt with by the High Court by observing that there was *prima facie* material on record to frame the charge and, hence, interference was declined. This order dated 31.10.2023 attained finality as it was not challenged any further by the accused.

13. It appears that instead of raising a challenge to the order dated 31.10.2023 passed in Criminal Writ Petition No.80 of 2023, the accused yet again preferred Criminal Writ Petition No.346 of 2024. In this writ petition, the order dated 21.12.2017 passed by the learned Magistrate framing charge as well as the order dated 28.12.2021 passed by the Sessions Court dismissing Criminal Revision Application No.11 of 2018 was challenged. The accused re-agitated the same challenge, namely, absence of the original plan on the basis of which the charge of forgery had been framed. The fact that the earlier criminal writ petition preferred by the accused had been dismissed was brought to the notice of the Court which fact has been recorded by the learned Single Judge in his order dated 01.07.2024. The learned Single Judge further observed that though the informant was a party to the criminal writ petition, it was not necessary to issue notice to him at that stage as the chargesheet was filed by the State. Be that as it may, on 28.08.2024, the learned Single Judge proceeded to hold that in the absence of the basic documents on which the case of the prosecution rested, the material on record was not sufficient to frame charge against the accused. On that basis, the order passed by the learned Magistrate framing charge as well as the order passed by the Sessions Court in the revision application came to be set aside and the accused was discharged for the offence punishable under Sections 468, 471 and 420 of the Penal Code. As noted above, this order has been impugned in the present criminal appeal.

14. What can be immediately gathered from the record is that the initial challenge raised by the accused and her father-in-law to the First Information Report as well as the chargesheet was unsuccessful with the dismissal of Criminal Writ Petition No.80 of 2023 on 31.10.2023. The principal ground of challenge therein was absence of the original plan alleged to have been forged by the accused. The order of the Division Bench refusing to set aside the order framing charge was, thus, binding on the accused. A fresh attempt to raise a similar challenge could not have been undertaken by the accused without challenging the order dated 31.10.2023 passed in Criminal Writ Petition No.80 of 2023. While preferring the subsequent writ petition, the accused urged that since it was observed in paragraph 17 of the order of the Division Bench dated 31.10.2023 that the order of the revisional court upholding the order passed by the learned Magistrate framing charge had not been challenged, a fresh challenge was again being mounted by the accused. We are doubtful as to whether such course could have been adopted by the accused. The order framing charge by the learned Magistrate was dated 21.12.2017. Though the accused filed a revision application before the Sessions Court on 03.03.2018 challenging the said order, she simultaneously filed Criminal Writ Petition No.458 of 2020 on 04.02.2020 during pendency of the revision application challenging the very same order. When the Division Bench of the High Court decided Criminal Writ Petition No.80 of 2023 (as re-numbered) on 31.10.2023, the criminal revision application had already been dismissed on 28.12.2021. This fact finds mention in the order of the Division Bench. One of the grounds for not interfering with the order framing charge was that the said order had been upheld by the Sessions Court. This would not mean that it was open for the accused to again challenge the order passed by the learned Magistrate framing charge as well as the order of the Sessions Court dismissing the revision application. No such liberty was granted to the accused in the earlier round of litigation. The learned Single Judge, in fact, failed to take into consideration the earlier adjudication by the Division Bench by which it declined to interfere with the order framing charge passed by the learned Magistrate.

15. Yet another reason for this Court to interfere is on account of the bar to re-consider an issue that was decided earlier in the same proceedings on the principle of *'issue estoppel'*. The Division Bench in the earlier round having considered the ground of absence of the original plan being submitted along with the chargesheet and thereafter having declined to set aside the order framing charge, it was not open for the accused in a subsequent writ petition to again canvass the very same contention that had been canvassed in the earlier writ petition. The principle of *'issue estoppel'* would apply as a ground of challenge raised earlier but was unsuccessful was sought to be re-agitated before the same Court by the same party. To elaborate this aspect, we may refer to the decision of the three Judge Bench in **Piara Singh Vs. State of Punjab**[4], wherein it is held as under:

> "It should be stated that the principle of issue-estoppel is different from the principle of double jeopardy or *autre fois acquit* as embodied in s. 403 of the Criminal Procedure Code. The principle of issue-estoppel is a different principle, *viz.* where an issue of fact has been tried by a competent court on a former occasion and a finding has been reached in favour of an accused, such a finding would constitute an estoppel or *res judicata* against the prosecution not as a bar to the trial and conviction of the accused for a different or distinct offence but as precluding the reception of evidence to disturb that finding of fact when the accuses is tried subsequently even for a different offence which might be permitted by the terms of s. 403(2), Cr.P.C. Speaking on the principle of estoppel Dixon, J. said in ***King v. Wilkes***[5]:
>
> > "Whilst there is not a great deal of authority upon the subject, it appears to me that there is nothing wrong in the view that there is an issue-estoppel, if it appears by record of itself of as explained by proper evidence, that the same point was determined in favour of a prisoner in a previous criminal trial which is brought in view on a second criminal trial of the same prisoner. That seems to be implied in the language used by Wright, J. in *R. v. Ollis* which in effect I have adopted in the foregoing statement...... There must be a prior proceeding determined against the Crown necessarily involving an issue which again arises in a subsequent proceeding by the Crown against the same prisoner. The allegation of the Crown in the subsequent proceeding must itself be inconsistent with the acquittal of the prisoner in the previous proceeding. But if such a condition of affairs arises I see no reason why the ordinary rules of issue estoppel should not apply. Such rules are not to be confused with those of *res judicata*, which in criminal proceedings are expressed in the pleas of *autre fois acquit* and *autre fois convict*. They are pleas which are concerned with the judicial determination of an alleged criminal liability and in the case of conviction with the substitution of a new liability. Issue-estoppel is concerned with the judicial establishment of a proposition of law or fact between parties. It depends upon well-known doctrines which control the relitigation of issues which are settled by prior litigation."

[4] 1969 INSC 3
[5] 77 C.L.R. 511 at pp. 518-519

In a subsequent case ***Marz v. The Queen***[6], Dixon, C.J. stated as follows :-

> "The law which gives effect to issue-estoppels is not concerned with the correctness or incorrectness of the finding which amounts to an estoppel still less with the processes of reasoning by which the finding was reached in fact....... It is enough that an issue or issues have been directly raised and found. Once that is done, then, so long as the finding stands, if there by any subsequent litigation between the same parties, no allegations legally, inconsistent with the finding may be made by one of them against the other. *Res judicate pro veritate accipitur*. And .... this applies in pleas of the Crown."

Again in ***Brown v. Robinson***[7] Herron and Maguire, JJ. said:

> "Before issue-estoppel can succeed in a case such as this there must be prior proceeding determined against the Crown necessarily involving an issue which again arises in a subsequent proceeding by the Crown against the same prisoner.... It depends upon an issue or issues having been distinctly raised and found in the former proceeding".

The principle of issue-estoppel has received the approval of this Court in ***Pritam Singh v. State of Punjab***[8] and ***Manipur Administration v. Thokchom Bira Singh***[9] and several later decisions. But the principle cannot be invoked in the present case because the parties are different and the decision upon any issue as between State and Nand Lal Sehgal in the same litigation cannot operate as binding upon the State with regard to present appellant. For issue-estoppel to arise there must have been distinctly raised and inevitably decided the same issue in the earlier proceedings between the same parties."

On this count too, we find that the impugned order is unsustainable in law and, thus, liable to be set aside.

16. Notwithstanding this position, even on merits of the challenge, we find that the entire premise on which the accused seeks discharge, namely absence of the original plan on the basis

---

[6] [1956] 96 C.L.R. 62
[7] [1960] S.R. (N.S.W.) 297, 301
[8] AIR 1956 SC 415
[9] 1964 INSC 67

of which the charge of forgery was framed does not stand on firm ground. In this context, it would be apposite to refer to the decision in **Rama Shanker Lal and others Vs. The State of U.P.**[10]. The appellants were prosecuted for the offence under Sections 120-B, 420, 468 and 471 of the Penal Code. It was alleged that some insertions/changes were made in a sale deed that was presented for registration. The learned Assistant Sessions Judge acquitted the appellants after holding that there was no proof of forgery of the original sale deed, which was not produced before the Court. The High Court, however, held that the contents of the certified copy of the sale deed were different from what was decided to be sold and what was actually incorporated in the sale deed. The appellants were, thus, convicted for the offences under Sections 468, 471 and 120-B of the Penal Code. Before this Court, it was urged that there was no evidence of forgery of the original sale deed as it was not available on record. In that context, it was observed as under:

> "7. The document said to have been forged as already pointed out has not been produced in the case. According to the prosecution that document was taken back by Rama Shankar Lal; whereas according to the accused it was Vishnu Pad Mathur (P.W.1) who had received back the original document from the office of the Sub-Registrar. Both sides desired this Court to draw an adverse inference against the opposite party for the non-production of the original sale deed. On the state of evidence on this point we are disinclined to express any

[10] (1971) 3 SCC 905

> definite opinion on the question as to who had received back the sale deed from the office of the Sub-Registrar though it seems likely that Rama Shankar Lal had taken back the sale deed because the sale deed constituted proof of the title of the vendee. In the circumstances we refrain from raising any presumption from the non-production of the sale deed. However, the fact remains that we have not had the benefit of looking at the document alleged to have been forged, a circumstance which is material and which must to a large extent go against the prosecution. We do not mean to say that in the absence of the document alleged to be forged the Court can in no case hold the offence of forgery to be established, but to claim such a finding in the absence of the document said to be forged, the evidence must in our view exclude all possibility of a reasonable doubt. This is in accord with the general principle of our jurisprudence."

It was, thus, held that the appellants were aware that the documents they used did not represent the original sale deed. Their conviction under Section 471 of the Penal Code was upheld.

17. From the aforesaid decision of the three Judge Bench, it can be seen that the original sale deed alleged to have been forged was not produced before the Court. Despite such position, this Court held that absence of the original sale deed, by itself, could not be the basis to record a finding that in no case, the offence of forgery could not be established. It observed *"We do not mean to say that in the absence of the document alleged to be forged the Court can in no case hold the offence of forgery to be established, but to claim such a finding in the absence of the document said to be forged, the evidence must in our view exclude all possibility of a reasonable doubt. This is in accord with the general principle of our jurisprudence."* Thus, absence of production of the original document by itself was not found fatal for the prosecution case. In other words, on the basis of other evidence on record, the prosecution could attempt to prove the offence of forgery, albeit beyond reasonable doubt. This would naturally depend on the facts of each case.

Thus, in view of the decision in **Rama Shanker Lal** *(supra)*, absence of the original document that is alleged to be forged, by itself, cannot sound the death knell of the prosecution case. It is only after evaluating the entire prosecution material that a finding would be required to be recorded as to whether the charge of forgery has been proved beyond reasonable doubt. That the prosecution could result in acquittal at the conclusion of the trial is a different matter altogether.

18. This position is buttressed in view of the decision of the three Judge Bench in **Central Bureau of Investigation Vs. R.S. Pai and Another**[11] wherein this Court considered the question as to whether the prosecution could produce additional documents which are gathered during investigation after submitting the charge-sheet. After referring to Section 173 of the Code, it was held

[11] 2002 INSC 178

that in absence of any specific provision in this regard, in a given case, additional documents could be produced even after filing of the chargesheet. The following observations are material:

> "From the aforesaid sub-sections, it is apparent that normally, the Investigating Officer is required to produce all the relevant documents at the time of submitting the charge-sheet. At the same time, as there is no specific prohibition, it cannot be held that the additional documents cannot be produced subsequently. If some mistake is committed in not producing the relevant documents at the time of submitting the report or charge-sheet, it is always open to the Investigating Officer to produce the same with the permission of the Court. In our view, considering the preliminary stage of prosecution and the context in which Police Officer is required to forward to the Magistrate all the documents or the relevant extracts thereof on which prosecution proposes to rely, the word 'shall' used in sub-section (5) cannot be interpreted as mandatory, but as directory. Normally, the documents gathered during the investigation upon which the prosecution wants to rely are required to be forwarded to the Magistrate, but if there is some omission, it would not mean that the remaining documents cannot be produced subsequently. Analogous provision under Section 173(4) of the Code of Criminal Procedure, 1898 was considered by this Court in Narayan Rao v. The State of Andhra Pradesh [(1958) SCR 283 at 293] and it was held that the word 'shall' occurring in sub-section 4 of Section 173 and sub-section 3 of Section 207A is not mandatory but only directory. Further, the scheme of sub-section (8) of Section 173 also makes it abundantly clear that even after the charge-sheet is submitted, further investigation, if called for, is not precluded. If further investigation is not precluded then there is no question of not permitting the prosecution to produce additional documents which were gathered prior to or subsequent to investigation. In such cases, there cannot be any prejudice to the accused. Hence, the impugned order passed by the Special Court cannot be sustained."

Such a course is, thus, not precluded.

19. It is, thus, clear that absence of the original document relied upon by the prosecution to bring home the charge of forgery would be a matter to be considered at the trial and its absence by itself cannot be made the basis for quashing the entire prosecution. In other words, the prosecution can attempt to bring home the charge on the basis of circumstantial evidence. However, the entire proceedings would not be liable to be quashed without affording an opportunity to the prosecution to attempt to prove the charge at the trial as seen in the facts of the present case.

20. Yet another reason that is apparent from the record is the detailed analysis undertaken by the learned Single Judge while exercising jurisdiction in a challenge to an order passed under Section 227 of the Code. At that stage, it would not be permissible to sift through the entire evidence forming part of the chargesheet with a view to find whether such evidence could result in conviction of the accused. It would be sufficient if a grave suspicion is raised against the accused on the basis of such material so as to sustain a trial. In this regard, we may refer to the broad parameters to be borne in mind while exercising such jurisdiction. In **K.H. Kamaladini Vs. State**[12], this Court observed as under:

> "As far as the scope of hearing at the time of framing of the charge is concerned, the law is well settled. Firstly, at this stage, the Court can examine only the documents forming part of the charge sheet, and no other material can be considered. Secondly, after considering the material on record, the Court has to decide whether or not there exists a sufficient ground for proceeding with the trial against the appellant. Thirdly, at this stage, the Court cannot sift the evidence forming a part of the chargesheet with a view to separating the grain from the chaff. Fourthly, if the Court is of the view that the evidence without cross-examination or rebuttal shows that the accused has

[12] 2025 INSC 745

not committed any offence, then an order of discharge must be passed. Lastly, if the evidence adduced before the Court creates a grave suspicion against the accused, the Court will not discharge the accused."

In **Ram Prakash Chadha Vs. The State of Uttar Pradesh**[13], this Court after referring to Section 227 of the Code held that the question of framing a charge would arise only in a case where the Court satisfies itself about existence of a *prima facie* case revealing from 'the record of the case and the documents submitted therewith' against the accused. The conclusion on existence or otherwise of a ground to proceed against the accused concerned cannot be based on mere suppositions or suspicions or conjectures not founded on material available before the Court.

21. Thus, taking an overall view of the matter, we are satisfied that the learned Single Judge was not justified in exercising jurisdiction and re-appreciating the entire material on record despite the fact that in the earlier round of the same litigation at the behest of the accused, the Division Bench on consideration of the very same submissions had declined to interfere with the order passed by the learned Magistrate framing charge. The accused has again sought to raise a challenge to the order framing charge

[13] 2024 INSC 522

despite being unsuccessful earlier. For the aforesaid reasons, the judgment dated 28.08.2024 passed by the learned Single Judge of the High Court in Criminal Writ Petition No.346 of 2024 is set aside. The proceedings in Criminal Case No.90/S/2016/F before the learned Magistrate are restored. The learned Magistrate shall now proceed with the trial in accordance with law. It is clarified that all contentions of the parties including the accused are kept open for being raised at the trial. Any observations made herein shall not cause prejudice to either of the parties. Since the complaint is of the year 2012, the proceedings before the learned Magistrate are expedited. The Criminal Appeal is allowed in aforesaid terms. The pending Interlocutory Applications are disposed of.

………………………………J.
[UJJAL BHUYAN]

………………………………J.
[ATUL S. CHANDURKAR]

NEW DELHI,
SEPTEMBER 22, 2026.