2026:AHC:98166

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2793 of 2026

Mukul Agarwal

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Manoj Kumar Singh, Sanjeev Kumar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 86

HON'BLE SUBHASH CHANDRA SHARMA, J.

Heard learned counsel for the revisionist as well as learned A.G.A. for the State and perused the material on record.

The present criminal revision has been filed with a prayer to allow this revision and set aside the impugned order for framing of charge dated 09.02.2026 as well as order dated 21.01.2026 passed by the learned Chief Judicial Magistrate, Moradabad, whereby rejected the discharge application in Criminal Case No. 5220 of 2022 (State Vs. Mukul Agarwal) arising out of Case Crime No. 67 of 2021 under Sections 323, 504, 506 I.P.C. and Section 92(Kha) of the Divyang Jan Adhikar Adhiniyam, Police Station Civil Lines, District Moradabad and further prays to stay the effect and operation of the aforesaid order during the pendency of the present criminal revision.

It is submitted by learned counsel for the revisionist that in this case the dispute was between husband and wife. The revisionist is husband and opposite party no. 2 is wife. He further submits that there are several pending cases between both of them those are related to matrimonial dispute. On account of dispute between the parties present F.I.R. was lodged with false allegations against the revisionist for committing maar-pit with the child, abuse and threatening to kill. The colour of injuries does also not support the allegation of maar-pit. During the course of investigation, no sufficient material was collected by the I.O. but charge sheet was filed and cognizance of the offence was also taken by the learned trial court. An application for discharge was moved by the revisionist before the learned trial court for offence under Section 506 I.P.C. not to be made out from the material collected during the course of investigation and with the contents as mentioned in F.I.R. but the learned trial court has not considered all these facts and the material as collected by I.O. but passed the order in question that cannot be said to be lawful, therefore, request to set it aside and allow

the revision.

He relied his argument on the case of ***Sharif Ahmed and Another Versus State of U.P. and Another 2024 INSC 363*** in Para nos. 38, 39 and 40 that are quoted hereinbelow:-

"38. An offence of criminal intimidation arises when the accused intendeds to cause alarm to the victim, though it does not matter whether the victim is alarmed or not. The intention of the accused to cause alarm must be established by bringing evidence on record. The word 'intimidate' means to make timid or fearful, especially: to compel or deter by or as if by threats.25 The threat communicated or uttered by the person named in the chargesheet as an accused, should be uttered and communicated by the said person to threaten the victim for the purpose of influencing her mind. The word 'threat' refers to the intent to inflict punishment, loss or pain on the other. Injury involves doing an illegal act.

39. This Court in Manik Taneja and Another v. State of Karnataka and Another26, had referred to Section 506 which prescribes punishment for the offence of 'criminal intimidation' as defined in Section 503 of the IPC, to observe that the offence under Section 503 requires that there must be an act of threating another person with causing an injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested. This threat must be with the intent to cause alarm to the person threatened or to do any act which he is not legally bound to do, or omit to do an act which he is entitled to do. Mere expression of any words without any intent to cause alarm would not be sufficient to bring home an offence under Section 506 of the IPC. The material and evidence must be placed on record to show that the threat was made with an intent to cause alarm to the complainant, or to cause them to do, or omit to do an act. Considering the statutory mandate, offence under Section 506 is not shown even if we accept the allegation as correct.

40. In view of the aforesaid position, we quash the chargesheet and the summoning order. The appellants are discharged. We clarify that the observations made above will have no bearing on the civil proceedings, if any, already initiated or which may be initiated in future by the respondent/complainant."

He also relied his argument on the case of ***Dr. Anand Rai Vs. State of M.P. and Another 2026 INSC 141*** in Para No. 12 that is related to sections 227 and 228 CrPC (sections 250 and 251BNSS) bought-forth hereinafter:-

"12. Sajjan Kumar v. CBI, which has been relied upon a bench of three judges in Ghulam Hassan Beigh v. Mohd. Maqbool Magrey, formulated the following principles regarding the scope of the above quoted sections:

(i) The Judge while considering the question of framing the charges under

(ii) 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.

(iii) The 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, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."

Learned A.G.A. for the State opposed the prayer as aforesaid and contended that in this case there is clear allegation by the informant in the F.I.R. against the revisionist that he strangulated the neck of elder daughter of the informant and when she tried to rescue her he beat her while abusing in filthy words and also threatened to kill. During the course of investigation the I.O. collected the material and then filed charge sheet against the revisionist under Sections 323, 504, 506 I.P.C. and Section 92(Kha) of the Divyang Jan Adhikar Adhiniyam, Police Station Civil Lines, District Moradabad. The learned trial court has also passed the order dated 21.02.2026 after considering all the facts and the law relevant on the point. The plea of defence regarding medical report of the child about the change of colour of injuries can only be considered during the course of trial when the evidence of doctor conducting medical examination is made. The revisionist may have an opportunity to put questions in this regard before the doctor but at this stage the scrutiny of material as required during the course of trial cannot be made. He also contended that in pursuance to the order dated 21.01.2026 the learned trial court has also framed the formal charge on 09.02.2026. Charge if once framed cannot be deleted though while exercising the powers under Section 216 Cr.P.C. it can be added or altered.

On considering the facts and circumstances of the case, submissions made by learned counsel for the revisionist as well as learned A.G.A. and perusal of record, the orders passed by the learned trial court dated 21.01.2026 and 09.02.2026 for framing of formal charge, the contents of F.I.R., it transpires that the revisionist made assault to the minor child of the informant when she (opposite party no. 2) came in rescue she was beaten by him with filthy abuse and also the revisionist threatened her to kill. She has reiterated the same contention during the course of investigation before the I.O. There may be several cases between the informant and the revisionist but on that basis Court cannot assume about the truthfulness or falsitude of the allegations in the present case. At the stage of framing of charge, the material collected during the course of investigation is only to be taken in consideration with a view to see the existence of prima facie case. Even on grave suspicion charge can be framed. The nature of injuries or change of colour can also not be scrutinized at this stage but opportunity to verify this fact will be available to the revisionist during the course of trial when the medical officer conducting medical examination will be examined before the learned trial court. The learned trial court has passed the order dated 21.01.2026 after considering the material on record and the law relevant at the stage of framing of charge. There appears no any illegality or impropriety in the order dated 21.01.2026 and in pursuance to that order formal charge has also been framed on 09.02.2026, as a result, if charge once framed formally, it cannot be deleted. In this way, there appears no any illegality or impropriety in this order but this revision being devoid of merit is liable to be dismissed.

Accordingly, this criminal revision is, hereby, ***dismissed*** at the admission stage itself.

April 30, 2026
Suraj Srivastav

(Subhash Chandra Sharma,J.)

Digitally signed by :-
SURAJ SRIVASTAVA
High Court of Judicature at Allahabad