

**IN THE COURT OF DIG VINAY SINGH, SPECIAL JUDGE (PC ACT),
CBI-09 (MPs/MLAs CASES), ROUSE AVENUE DISTRICT COURT, NEW
DELHI.**

Crl. Rev 35/2025
Filing No.915/2025
CNR no. DLCT11-000916-2025
Under Sections 438/440 of BNSS 2023
(Corresponding to Section 397 & 399 of Cr.PC)

Date of Institution: 09.09.2025
Date of Arguments: 13.10.2025
Date of Decision: 18.10.2025

Yogender Chandolia

S/o Sh. Om Prakash Chandolia,
R/o 74/5528, Regarpura, Karol Bagh,
Prasad Nagar, Delhi.

.....**Petitioner**

Versus

1. State (Govt. of NCT)

Through Chief Secretary,
Govt. of Delhi, New Delhi

2. HC Rajkumar

2632/T, PIS no. 28070452,
Karol Bagh, Traffic Circle, Delhi.
(Now 379/, P.S. Saket)

.....**Respondents**

ORDER

18.10.2025

1. This Revision Petition filed by a sitting Member of Parliament challenges the framing of criminal charges against him by the Ld. ACJM-03, Rouse Avenue Courts, New Delhi. Order dated 03.05.2025, which ordered the framing of charges U/s 353/356/341/34 of the erstwhile Indian Penal

Code, in connection with an incident on 07.10.2020, is sought to be set aside.

2. The revisionist claims that the charges are neither legally nor factually sustainable, arguing that the Trial Court made an error by mechanically accepting the prosecution's allegations. It is contended that the essential elements of the charged offences are missing; the prosecution's case is undermined by significant evidentiary weaknesses, including the absence of independent witnesses, medical evidence, and CCTV footage, and the entire process is accused of being a politically motivated, malicious attempt to harass the revisionist, who is a public representative.
3. Before proceeding further, it is noted that the scope of revision U/s 438/440 of the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), which corresponds to Sec. 397/399 of the erstwhile Cr.P.C., is limited. The scope of interference and exercise of Revisional jurisdiction is very restricted; it should be exercised sparingly, especially when the decision under challenge is clearly erroneous, there is non-compliance with legal provisions, the finding recorded by the Trial Court is based on no evidence, or material evidence has been ignored, or judicial discretion is exercised arbitrarily or perversely in framing the charge. In view of this limited scope, the facts of the case and the contentions raised by the revisionist shall be examined.
4. The FIR in question was registered on 08.10.2020, regarding an incident dated 07.10.2020, at PS Prasad Nagar under sections 186, 353, 356, 341, and 34 IPC, based on a complaint by Head Constable Raj Kumar. The complainant alleged that he was on duty as a Traffic Constable on Crane no. DL-1LP 0640 at Karol Bagh circle. Around 4:30 PM, while on crane duty with his labour, he reached Tank Road near Shiv Mandir at Karol Bagh and noticed a Scooter parked improperly. He asked for it to be

removed. The rider took the scooter away. But the accused then started yelling at the complainant, questioning whether the other vehicles parked there belonged to the complainant's father and implying that he was not removing those vehicles. The complainant ignored the accused, and as he proceeded further on his crane, the accused blocked his way, stopped him, and said that the complainant did not know him. The accused abused the complainant, instigating the gathered crowd. When he tried to pacify the accused, the abuse continued. The complainant attempted to record the incident on his phone, but the accused tried to snatch the phone and pull him down from the crane. To protect his phone, the complainant handed it to a labourer on the crane, namely Sh. Beera. An unknown associate of the accused, who could not be identified, snatched the phone from Beera. Also, the accused took the crane's key and kept it along with the phone.

- 4.1. The complainant called the Traffic Inspector (TI) and made a PCR call. Meanwhile, the accused continued to obstruct him and told him to call the TI. Later, police and traffic staff, including Ct. Sonu, arrived and asked the accused to step down from the crane. The accused misbehaved with them too. When TI arrived, the accused shouted and abused the traffic police. Finally, after the TI pacified the accused, he returned the key and phone.
- 4.2. Based on the complaint, an FIR was registered. During the investigation, statements of witnesses were recorded, and the accused was charge-sheeted. The associate of the accused who took the mobile from Beera remains unidentified.
5. After hearing both sides, the Ld. The Trial Court discharged the accused under Section 186 of the IPC (obstructing a public servant in the discharge of official functions), mainly because, although a written complaint under Section 195 of Cr.P.C. was available on record for this offence, it wasn't considered while taking cognizance of the chargesheet.

- 5.1. The State did not challenge this part of the impugned order, so this Court does not need to go into that question.
- 5.2. Concerning the other offences mentioned, the Ld. ACJM found sufficient prima facie evidence and ordered charges to be framed.
6. The revisionist challenges the impugned order on the following grounds:
 - The revisionist claims false implication, terming the prosecution as frivolous, vexatious and malicious;
 - That Ld. ACJM erred in framing charges U/s 353/356/341/34 of the IPC, claiming the absence of the basic ingredients of these offences. The Court mechanically accepted the allegations without assessing whether they disclosed essential elements, thus causing prejudice to the revisionist.
 - The proceedings are deemed illegal from their foundation, as Police officials registered the FIR without adhering to statutory safeguards, particularly concerning complaints by public servants alleging obstruction. Although discharged U/s 186 of the IPC, the Court failed to recognise that a flawed initiation questions the entire continuation of the case.
 - Charge U/s 353 IPC is unsustainable due to the absence of the injury, medical examination, or independent corroboration. The case solely relies upon the departmental colleagues' words, and no independent witness from a busy area is cited.
 - Charge U/s 356 IPC is misconceived as there is no allegation or intention of theft by the revisionist. The claim of an “unidentified partner” snatching the phone cannot implicate the revisionist, and no recovery or seizure exists to support this charge.
 - Charge U/s 341 IPC is unsustainable because the allegations are vague. Merely standing in front of a Crane or protesting does not constitute wrongful restraint without clear evidence of actual prevention of movement, its duration, or forceful physical obstruction.
 - The invocation of Section 34 of the IPC by the Ld. Trial Court is termed mechanical and baseless as there is no identified co-accused or evidence of

a pre-arranged plan or common intention, which are necessary for applying this provision.

- The case suffers from significant weaknesses and inconsistencies, including a one-day delay in filing the complaint, the absence of CCTV footage, no independent witnesses despite an alleged crowd, no recovery of property, and the lack of a proper seizure memo. The case relies solely on departmental witnesses, which diminishes its reliability.
- The revisionist, a public representative, claims that his protest against selective traffic action has been maliciously turned into a false case to teach him a lesson.
- The Ld. Trial Court did not apply its judicial mind to the principles governing the framing of charges. It failed to sift evidence for the ingredients of the offences; the allegations at most raise conjecture. Proceeding to trial on such weak material is unjust, wastes judicial time and resources, and subjects the revisionist to prolonged harassment based on weak, uncorroborated, and malicious allegations meant to defame the revisionist publicly.
- Even if accepted at face value, the allegations are insufficient to constitute a cognizable offence, as mere verbal exchanges or disagreements cannot justify invoking criminal law.

7. Upon being issued notice of the revision, the State orally opposed the revision petition, and arguments were presented by Ld. Additional PP for the State.

7.1. The respondent no. 2 (the complainant) was also properly served with the notice of the revision; however, he chose not to contest it and he neither filed any reply, nor filed written submissions, despite opportunity.

7.2. Not only were oral arguments from the revisionist and the State heard, but also the brief written arguments preferred by the revisionist have been examined.

8. The law regarding considerations at the stage of framing charges or discharging an accused is now well settled and can be summarized as follows. It is well settled in law that at this stage, the Court need not weigh and sift through the evidence as if passing a judgment; a mini-trial is not required, and if the materials collected by the Investigating Agency reflect strong suspicion, that alone suffices to frame charges. At this stage, the Court cannot sift the evidence forming a part of the charge sheet to separate the grain from the chaff. The Judge has merely to sift the evidence to find out whether or not there is sufficient ground for proceeding. At this stage, the Court does not need to evaluate the truthfulness or veracity of the material presented before it. The Court need not even determine whether the evidence is sufficient to support a conviction. Those considerations will require attention once the evidence is recorded. At this stage, the court has to merely consider the broad probabilities, the total effect of the evidence and documents produced, any basic infirmities in the case, and so forth. However, this does not entitle the court to make a roving inquiry into the pros and cons. At this stage, the probative value of the material on record cannot be assessed, and the material presented by the prosecution has to be accepted as true. The defence of the accused cannot be examined at the stage when the accused seeks to be discharged under Section 227 Cr.P.C. (Section 250 of BNSS). The Code does not grant the accused the right to produce any document at the charge-framing stage. During this stage, the accused's submission should be limited to the material provided by the prosecution. The established principle is to rely on the materials presented by the prosecution, both in the form of oral statements and documentary evidence, and to act upon them without subjecting them to questioning through cross-examination, assuming in favour of the prosecution. (*Reliance; K. H. Kamaladini v. State*

2025:INSC:745; M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768; State of Orissa v. Debendra Nath Padhi (2005) 1 SCC 568; State of J&K v. Sudershan Chakkar (1995) 4 SCC 181; P. Vijayan v State of Kerala (2010) 2 SCC 398; State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198; State v. S. Bangarappa, (2001) 1 SCC 369; Akbar Hussain v. State of J&K, (2018) 16 SCC 85; Mauvin Godinho v. State of Goa, (2018) 3 SCC 358)

9. 'Wrongful restraint' is defined in Section 339 and is punishable under U/s 341 of the IPC. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in a direction in which he has a right to proceed is said to have committed wrongful restraint.
- 9.1. In the present facts, the act of the accused in obstructing the complainant and his crane from proceeding further, where the complainant had a right to proceed, indeed falls within the definition of Section 339 of IPC, prima facie.
10. Regarding the Revisionist's argument that the elements of Section 353 are not met, Section 353 criminalizes either assault or criminal force to deter a public servant from the discharge of his duty.
- 10.1. The word "*force*" is defined in Section 349 of IPC, which states that a person is said to use force against another if he causes motion, change of motion, or cessation of motion to that person, or if he causes any substance to undergo such motion, change, or cessation that brings that substance into contact with any part of the other person's body, or with anything that the other is wearing or carrying, or with anything situated in such a way that the contact affects the other person's sense of feeling. This applies when the person causing the motion, change, or cessation does so by his own bodily power, by disposing of any substance in such a manner, or by inducing any animal to move or stop.

- 10.2. '*Criminal force*' is defined in Section 350 of the IPC. It provides that anyone who intentionally uses force against another person without that person's consent, with the purpose of committing an offence, or intending to cause, or knowing it is likely to cause, injury, fear, or annoyance to that person, is said to use criminal force on that other individual.
- 10.3. Under S. 353, either assault or use of criminal force with intent as provided in that Section is sufficient.
- 10.4. In the present case, when the complainant specifically stated that the accused pulled him down from the crane after obstructing his way, it clearly prima facie indicates that criminal force was used with the intent to cause fear or annoyance to the complainant. It was done with the intent to deter the public servant from discharging his duty as a traffic constable.
- 10.5. Therefore, even the contention that Section 353 of the IPC does not apply, prima facie, does not hold at this stage.
11. Similarly, the revisionist's argument that the ingredients of Sec 356 of the IPC are not fulfilled must be rejected. The section states that punishment is applicable when anyone assaults or uses criminal force against a person while attempting to steal any property that the person is carrying or wearing.
- 11.1. The argument that the revisionist did not snatch the mobile from the complainant but it was only taken from the complainant and later returned, must be rejected against the revisionist.
- 11.2. A perusal of the FIR reveals that the complainant has specifically alleged that when he was recording the incident in question and the misbehavior by the revisionist, the revisionist attempted to snatch his mobile phone. When the complainant tried to board his crane to escape from the revisionist, he was attempted to be pulled down, and when he handed over his phone to his labour, an associate of the revisionist snatched the phone

from the labour of the complainant. These allegations prima facie attract Section 356 of IPC. In this case, while attempting to take the mobile of the complainant, as per allegations in the complaint, criminal force was prima facie used, which is sufficient to frame a charge even for that offence.

12. It is now well established that Section 34 of IPC not only covers situations where there is a prior meeting of minds between two or more accused, sharing a common intention to commit a crime, but also includes cases where such common intention develops immediately prior to the committing the crime. Therefore, even when a common intention is inferred from the acts of two or more accused during the commission of the offence, Sec 34 would apply.
 - 12.1. In the present case, initially, the accused/revisionist attempted to snatch the mobile phone from the complainant. Subsequently, his associate took the mobile from Beera, to whom the complainant had handed it over. Additionally, the accused also took the keys of the vehicle. The accused retained the mobile and the key after his associate obtained the mobile from the complainant, till they were returned.
 - 12.2. The fact that the unknown associate of the accused obtained the mobile and handed it over to the accused, who then later returned it to the complainant after being pacified by the TI and others, clearly indicates that the said unknown person acted in concert with the accused. After all, common intention, being a mental element, must be inferred from the attending circumstances that may be present before, during, or after the commission of the crime.
 - 12.3. Thus, there is no merit in the contention that Section 34 does not apply in this case. It prima facie applies.
13. The contention of the revisionist that there are no independent witnesses joined by the prosecution or that only police officials and colleagues of the

complainant have been examined does not help his case at this stage. After all, a police official, even if a sole witness, is a competent witness, and the law does not prevent a police officer from being a credible or trustworthy witness. Besides the complainant, other police officials and labourers, including Beera, have been examined by the investigating agency, and their statements on record support the complainant's version.

14. This is further corroborated by the video recording taken from the complainant's mobile. Therefore, the absence of CCTV footage would not make any difference. It is the quality of evidence, not the quantity, that matters.
15. None of the arguments raised by the revisionist regarding the non-joining of independent witnesses, the fact that only colleagues of the complainant have been examined, the lack of CCTV footage, or alleged political motives, helps the revisionist at this stage. At this point, only a prima facie case needs to be considered, and any strong suspicion is sufficient to frame charges. The accused cannot question the truthfulness or veracity of the complainant or witnesses at this stage.
16. The revisionist relies upon the cases of *Amer Khan S/o Anwar Khan Vs. The State of Maharashtra and Ors.* Crl. App. no. 3312/2019; *B.N. John Vs. State of U.P. and Ors.* MANU/SC/0020/2025; *State of Punjab Vs. Davinder Pal Singh Bhullar & Ors.* AIR 2012 SC 364; *Mahender Kumar Sonker Vs. The State of Madhya Pradesh* 2024 INSC 600; *K. Sivadhasan Nair Vs. Jameela Prakasham* 2024:KER:69787; *Kripal and Ors. Vs. State of Uttar Pradesh* MANU/SC/0176/1954; *Pandurang, Tukia and Bhillia Vs. The State of Hyderabad* 1955 AIR 216; *Om Prakash Vs. State* AIR 1956 Allahabad 241; *Ashok Babu Vs. State Government of NCT of Delhi* 2025:DHC:7506; *State of U.P. Vs. Suresh Chandra Srivastava & Ors.*

1984 AIR 1108 and; State of Karnataka Vs. Hemareddy Alias Vemareddy and Anr. 1981 AIR 1417.

- 16.1. The facts of the case of *Amer Khan (supra)* are distinguishable. In that case, the allegations were solely of abuse and threat to the complainant, as well as rushing at his person. The High Court of Bombay observed that there was no allegation of the accused causing any motion, change of motion, or cessation of motion through bodily force. Therefore, it was not a case where any 'force' had been used by the accused, and consequently, the application of 'criminal force' did not arise.
- 16.2. In the case of *B N John (supra)*, the facts were again entirely different. There, no complaint was made under Section 186 of IPC before the Magistrate. Instead, the complaint was directed to the District Probation Officer, which was found to be legally insufficient. Additionally, the FIR did not contain allegations satisfying the elements of Section 353 IPC to establish an offence under that section, leading to the conclusion that Section 353 IPC was not applicable. Therefore, in that case, the FIR contained allegations under u/s 186 of IPC, for which the necessary written complaint was not filed, and there were no allegations of an offence under u/s 353 of IPC. In the present case allegations do prima facie attract section 353 of IPC.
- 16.3. In the case of *Davinder Pal Singh Bhullar (supra)* also the facts were entirely distinct. In that case Hon'ble High Court, after disposal of the appeal listed the matter as a part-heard case and issued certain directions, based on which an FIR was registered. The Hon'ble Supreme Court observed that when the impugned orders were a nullity, the resulting FIR, being an inseparable consequence of those orders, could not have lawful existence. It was held that if an initial action is not in accordance with the

law, all subsequent and related proceedings will also be invalid because illegality undermines the entire order.

- 16.4. In the case of *Mahindra Kumar Sonkar (supra)*, in an appeal against a judgment of conviction, after recording evidence, it was found that the allegations lacked the material to demonstrate that criminal force was used against a public servant, and thus, the ingredients of Section 353 IPC were absent. This case involved analysis after oral and medical evidence was recorded. Additionally, there was no complaint filed under section 186 of the IPC.
- 16.5. In the case of *K Sivadhasan Nair (supra)*, the allegations did not meet the requirements of Section 341 of the IPC. It was found that the complainant, who was obstructed by the accused, had no right to intervene as the Minister was about to present the budget; the obstruction was planned by the complainant and others to prevent the Minister from performing his constitutional duty. As a result, the benefit was given to the accused. That case is distinguishable on facts.
- 16.6. In the case of *Kripal Singh (supra)*, the appeal was against a conviction where the appellant's only common intention appeared to be to beat the deceased with weapons, possibly causing grievous injuries but not murder. That case is distinguishable on facts.
- 16.7. Similarly, the cases of *Pandurang and Ors. (supra)*, as well as *Om Prakash (supra)*, are distinguishable. Both cases arose from judgments after trial, during which Section 34 of the IPC was invoked. The principles regarding common intention, as established in these cases and other landmark judgments of the Hon'ble Supreme Court and High Courts, are well recognised. Notably, in the case of *Om Prakash*, it was held that even a co-accused's presence during the crime could invoke Section 34 if they committed an overt act or facilitated the crime through omission, such as

guarding or enabling another to commit the offence. Those cases are also distinguishable on facts.

- 16.8. In the case of *Ashok Babu (supra)*, also the facts were different. The accused were allegedly quarrelling with the complainant's wife, and when the complainant intervened, they also quarrelled with him. Subsequently, one accused struck the complainant with a danda, and another inflicted injury with a pointed weapon. No overt or covert acts were attributed to the others, and thus, Section 34 was not applicable concerning the injuries inflicted on the complainant. It is noteworthy that the case recognised that common intention can be formed on the spot at the time of the offence or immediately before it, based on attending circumstances.
- 16.9. In the case of *Suresh Chandra Srivastava (supra)*, the facts again differed. Certain employees of Allahabad High Court had removed used court fee stamps from old record files and reused them. Based on a complaint by the Registrar, an FIR was lodged for various offences, including forgery, use of forged documents, and conspiracy. However, the elements of those offences were found lacking, and it was held that, for other offences such as under Sections 262/263 of the IPC, a complaint under Section 195 Cr.P.C. was not required.
- 16.10. In the case of *Hemareddy (supra)*, the facts were again different. It was a case against a judgment of conviction where one co-accused was initially found guilty under Section 467 of the IPC, read with Section 114 and 193 IPC, but was acquitted because the complaint was filed by a private individual, not a civil court. Another accused was convicted under Section 467 IPC because she forged the document independently of the first accused. The court held that it was not possible to split the offences against the two accused.

17. Regarding the argument by the revisionist that there was a delay in lodging the FIR, the alleged delay is only one day. It is well established that a delay in filing an FIR by itself cannot be fatal to the prosecution, and the prosecution must be given an opportunity to explain the delay. This explanation can only be sought during trial and cannot be prejudged at this stage.
18. Similarly, the revisionist's argument that he himself had filed a complaint on the same day as the incident, as mentioned in GD no.0006A dated 08.10.2020 which is part of the charge sheet before the trial court, and that no action was taken on it, cannot aid the revisionist at this stage. If the revisionist is aggrieved by the lack of action on his complaint, he has appropriate legal remedies. The fact that his complaint was earlier in time does not mean that the complaint of R-2, on which the FIR was registered, is false, at least at this stage.
19. The argument by the revisionist that there is no proof of the complainant/R-2 being on duty at the relevant time, as filed by the prosecution, cannot aid his case at this stage. Not only the complainant but also other police officials have a version stating that the complainant was on duty. His records regarding being on duty can always be proved during the trial.
20. The argument of the revisionist that since the revisionist has been discharged u/s 186 of IPC, therefore charge u/s 353 of IPC cannot stand, is unconvincing. The discharge of the revisionist for the offence u/s 186 IPC was based on a technical reason and not on merits. The law is settled that even if a charge for one offence cannot stand due to technical reasons, an accused cannot be discharged for another offence that is independent of the first, when committed during the same transaction.

21. The mere absence of medical evidence of the complainant cannot be a reason to dismiss Section 353 IPC. Reliance placed by the revisionist on the case of *B N John (supra)*; *State of Punjab Vs. Devenderpal Singh (supra)*; and *Mahindra Kumar Sonkar (supra)* in this regard is of no help to the revisionist, as all those cases are distinguishable on facts.
22. The argument of the revisionist that the contents of the FIR and the statements of witnesses do not corroborate each other, cannot be considered at the stage of framing charges. If there is any contradiction, the same can be highlighted during the trial by the revisionist after recording evidence, and if the contradictions are of such a nature that they can discredit the prosecution's case, only then can the revisionist benefit from it.
23. The argument of independent corroboration from independent witnesses cannot assist the revisionist at this stage. Similarly, the argument of non-collection of CCTV footage, or absence of injury and the medical report of the complainant, does not help.
24. The reliance of the revisionist on the case of *K. Sivadhasan Nair (supra)* regarding the absence of ingredients of Section 341 is misplaced for the reasons mentioned above.
25. Similarly, reliance placed by the revisionist on the absence of ingredients of Section 34 of IPC, based on the cases of *Kripal Singh (supra)*; *Kashi Ram (supra)*; *Pandurang and Ors. (supra)*; *Om Prakash (supra)*; and *Ashok Babu (supra)*, does not help him, as these cases are distinguishable as mentioned above.
26. Consequently, no illegality, impropriety, incorrectness, irregularity, or arbitrariness is found in the impugned order, and therefore, the revision petition is meritless. The **revision is dismissed**.

27. A copy of this order be given dasti to the revisionist and also sent to the learned Trial Court. TCR be returned forthwith. The revision file be consigned to the Record Room.

*Announced in the open Court
on the 18th Day of October 2025*

**DIG VINAY SINGH
SPECIAL JUDGE (PC ACT),
CBI- 09 (MPs/MLAs CASES),
RADC, NEW DELHI (m)**