

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRM(M) No. 225/2024

Reserved on: 10.04.2026

Pronounced on: 18.04.2026

Uploaded on: 18.04.2026

Whether the operative part or
full judgment is pronounced: **Full**

Manga Ram

S/o Sh. Des Raj

**R/o Ward No. 6, Reasi, Tehsil and
District Reasi, presently lodged in
District Jail, Reasi.**



.....Petitioner(s)

Through: Mr. Rakesh Chargoira, Sr. Advocate with
Mr. Abhishek Verma, Advocate.

Vs

**Union Territory of J&K through
Incharge/SHO Police Station,
Reasi.**

..... Respondents

Through: Mr. Sumeet Bhatia, GA

CORAM: HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

(JUDGMENT)

1. The petitioner has invoked the jurisdiction of this Court under Section 482 Cr.PC (corresponding to Section 528 of BNSS) seeking quashment of order dated 31 January 2024 passed by the learned Principal Sessions Judge, Reasi ('the trial Court'), whereby formal charges under Sections 302/341 IPC came to be drawn up against the petitioner in FIR No. 255/2022 of Police Station, Reasi.

FACTUAL MATRIX

2. Precisely stated, the petitioner was sent up for trial allegedly for commission of offences under Sections 302/341 IPC accusing him of committing murder of deceased-Deepak Kumar on 6 October 2022 by inflicting the fatal blow with a wooden stick on his head, causing grievous head injury which led to his death while he was undergoing treatment. The deceased-Deepak Kumar was working in a private school namely, Gurukul School and was also supplying milk to the accused-Manga Ram (petitioner herein). On 6 October 2022 at about 7.30 p.m. when deceased after purchasing the household items from Reasi Bazar was returning home en-route alleged to have been wrongfully restraint by the petitioner and whereafter, inflicted blows with a wooden stick on his head and other parts of the body causing grievous injuries. The deceased in the injured condition was shifted to the hospital at Reasi by PW-2, Manu Devi (wife of the deceased) and PW-3, Sandeep Kumar (complainant and brother of the deceased). Since deceased stated to have sustained fatal blows, therefore, he was in need of advance treatment, accordingly, he was referred to GMC Jammu, however, despite he had undergone surgery, his condition did not improve, who finally bade goodbye to the life due to fatal injuries on 15 January 2023, while he was hospitalized in ICU at Government Medical College, Jammu.

3. Regarding the alleged occurrence, a FIR No. 255/2022 under Section 341/323 IPC initially, came to be registered on the basis of a written complaint

lodged by the brother of the deceased, i.e. PW-3, Sandeep Kumar, however, as investigation progressed, the health condition of the deceased deteriorated. Accordingly, at one stage, the offences under Sections 325 & 307 were also added but finally, on completion of investigation and on the basis of material collected, the Investigating Officer has concluded the commission of offences under Sections 302/341 IPC and also, on presentation of challan, the trial Court vide order dated 31 January 2024 had formally drawn up the charges against the petitioner under Sections 302/341 IPC.

GROUND OF CHALLENGE AND SUBMISSIONS

4. The petitioner is seeking quashment of order dated 31 January 2024, whereby charges are drawn up against the petitioner, on the ground that the only allegation against the petitioner is that of wrongfully restraint and causing simple injury to the deceased but there is no allegation that such injury was caused with intention to kill the deceased, therefore, the charges under Section 302 IPC are wrongly framed which is *per se* illegal.

5. It is further stated that the alleged injury sustained by the deceased in the ordinary course was not sufficient to cause the death, more particularly, when the CT Scan report reveals that neither there was fracture nor there was bleeding. According to the petitioner, as per the narration given in the FIR, the deceased was restraint and injury was caused to him by inflicting two blows but neither any intention nor any motive was attributed for killing the victim.

6. The petitioner has also questioned the sufficiency of causing death with the alleged weapon of offence having length of 2 feet 08 inches and further that from the facts and circumstances, at the most, the offence under Section 304 Part-II IPC would have been framed, but the trial Court totally overlooked this aspect of the matter and went on-to frame charges under Section 302/341 IPC. According to the petitioner, the cause of death of the deceased is given as ***“Recurrent acute on chronic SDH with complications”***, which means Subdural Hematoma, the cause of which may be due to long term use of heavy alcohol, long term use of Aspirin, Inflammatory Drug etc., thus, there is no definite opinion by the Doctors that the death is due to injury caused by the petitioner, therefore, according to the petitioner, the trial Court has wrongly framed the charges against the petitioner under Sections 302/341 IPC by totally ignoring the material collected during investigation as well as cause of death as given in the medical report.

7. On the other hand, Mr. Sumeet Bhatia, learned GA, while opposing the petition, went on-to submit that the scope of instant proceedings is very narrow and the Court, while exercising power under Section 482 Cr.PC can neither appreciate the evidence nor can take into consideration the defence raised by the petitioner and thus, the petition being misconceived, therefore, same may be dismissed.

8. Heard learned counsel for the parties. Considered their submissions and gone through the record.

ANALYSIS

9. At the outset, be it noted that in order to bring home the charges, the prosecution has cited as many as 26 witnesses and by now, 02 witnesses namely, PW-2, Manu Devi and PW-3, Sandeep Kumar have been examined so far. Both the witnesses have prima-facie supported the prosecution story and nothing destructive at least for the purposes of instant proceedings, appears to have elicited by the defence.

10. The allegation of assault by the petitioner with wooden stick to the deceased find support from the testimonies of PW-2 and PW-3 and also the witnesses have further supported the prosecution story that deceased has received head injury which had proved fatal.

FINDINGS AND CONCLUSION

11. Under the Code of Criminal Procedure or Bhartiya Suraksha Sanhita, the Investigating Officer (I/O) has wide powers during investigation to collect evidence and include or alter the applicable Sections of law in the final charge-sheet (under Section 173 Cr.PC). The charging Sections mentioned in the initial FIR are neither frozen nor final, rather they are only based on the complainant's version at the time of registration of case. The I/O is duty bound to apply the

correct Sections based on the evidence that emerges, including the statement of witnesses, medical report, post-mortem report etc.

12. The final charge-sheet reflects the I/O's conclusion after full investigation and as such, he is not statutory bound to retain every Section mentioned in the FIR if the evidence does not support it.

13. The trial Court, while taking cognizance and framing charges, looked at the charge-sheet and the accompanying documents including statement, medical evidence etc. and not the original FIR. An FIR is not a proof of facts alleged in it. It cannot independently prove or disprove that the alleged incident occurred.

14. It has been time and again held that the FIR is merely the first information that sets the criminal law in motion. The contents of the FIR do not carry probative value with regard to the truth of the allegations, except for the limited purpose of corroborating the testimony of the informant or contradicting/impeaching the credibility of its maker, therefore, nothing wrong can be found with the satisfaction of the I/O drawn on the basis of material collected over the period of time during investigation.

15. Insofar as, the contention of the petitioner that there was no intention to cause death or death was not on account of the alleged injuries sustained by the deceased is concerned, same cannot be gone into in the proceedings under Section 482 Cr.PC as same are the disputed questions of facts, thus, these are matters for

the trial Court after full evidence is led, including cross-examination of the Medical Officer, who conducted the post-mortem.

16. The post-mortem report explicitly opines that death was caused by ***Recurrent acute on chronic SDH with complications*** which originated from the assault by the accused. This medical opinion rather prima-facie constitutes evidence of causation as the condition is a recognized medical condition in which bleeding occurs over a pre-existing condition, frequently triggered or aggravated by trauma such as beating. The Doctor's opinion in the case on hand that the alleged occurrence is the root cause is decisive at the prima-facie stage and thus, no fault can be found, particularly, while framing the charges on the basis of material available on record.

17. Insofar as the contention of the petitioner that the alleged weapon of offence is not sufficient to cause death or there is absence of intention to cause death is concerned, same are also devoid of merit rather is a self-defeating argument because intention or knowledge that the alleged act is likely to cause death is an inference drawn from the totality of the circumstances, nature of assault, part of body targeted (head in the case on hand), force used, weapon, if any, number of blows etc., therefore, it is not a pure question of law that can be decided on the face of the record in a proceeding under Section 482 Cr.PC.

18. From the above discussion, what is deducible is that all the pleas raised by the petitioner falls within the realm of triable issues and thus, the trial

must take its course, whereas, the jurisdiction of the High Court at this stage, cannot be converted into appellate or revisional jurisdiction to re-appreciate, weigh or scrutinize the evidence on merits. Nor can this Court, at this stage, conduct a mini trial or adjudicate upon disputed or factual issues so much so, it is also not permissible to go beyond the prima-facie material available at the charge framing stage.

19. In the aforesaid backdrop, no fault either of fact or of law is found to have been made by the trial Court while passing the order dated 31 January 2024, whereby charges have been framed for commission of offences under Sections 302/341 IPC against the petitioner on the basis of material collected during investigation, medical report, weapon of offence and manner of assault, as such, the petition being devoid of merit, accordingly, the same is *dismissed*.

(SHAHZAD AZEEM)
JUDGE

JAMMU
18.04.2026
Tarun/PS

Whether order is speaking: Yes
Whether order is reportable: Yes