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Cr.R. No.5582/2024

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

CRIMINAL REVISION No.5582 of 2024

MAZHAR KHAN S/O ISRAIL KHAN

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Mr. Ashutosh Surana – Advocate for the petitioner.

Mr. Ambuj Patel - Government Advocate for the respondent/State.

Reserved on : 22/07/2026

Post on : 27/07/2026

ORDER

1. The present Criminal Revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."). The petitioner/accused has invoked the revisional



jurisdiction of this Court being aggrieved by the impugned order dated 02.09.2024.

2. The impugned order has been passed by the Seventh Additional Session's Judge, Ratlam (M.P.) in S.T. Case No.262/15. By way of the said order, the Trial Court has rejected the application filed by the petitioner under Section 227 of the Cr.P.C. seeking discharge, and has proceeded to frame charges against him. The charges framed against the petitioner are for the alleged commission of offences punishable under Sections 13(1) and 17 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter "UAPA"), along with Sections 121A, 123, and 124A of the Indian Penal Code (hereinafter "IPC"). It is pertinent to mention at the outset that this Court is exercising its limited revisional jurisdiction and not its appellate jurisdiction.

FACTS IN BRIEF

3. The factual matrix, as discernible from the record and strictly necessary for the adjudication of the present revision, is that the petitioner has been implicated in Crime No.170/2015 registered at Police Station Industrial Area, Ratlam, Madhya Pradesh. According to the prosecution, on 17.04.2015, the Station House Officer of Police Station Manakchowk visited the residence of one Imran Khan situated at 230, Mohan Nagar, Ratlam, for the seizure of certain articles in connection with another crime (Crime No. 213/2015). During the search, the police allegedly recovered certain incriminating booklets.



4. The prosecution asserts that the contents of these booklets amounted to an attempt to wage war against the State. Consequently, a Dehati Nalsi was recorded, which culminated in the registration of the present FIR bearing Crime No. 170/2015. Upon completion of the investigation, the police filed a final report (Challan) under Section 173 of the CrPC against the petitioner and other co-accused before the Judicial Magistrate First Class, and the matter was subsequently committed to the Sessions Court.

5. Initially, the Trial Court framed charges vide order dated 02.04.2016. This order was challenged by the petitioner before this Court in CRR/567/2016. Vide order dated 24.09.2019, this Court remanded the matter back to the Trial Court with a specific direction to consider the petitioner's objection regarding the non-compliance of the mandatory provisions of Section 6 of the National Investigation Agency Act, 2008 (hereinafter "NIA Act").

6. Following the remand, the petitioner filed an application under Section 227 of the CrPC on 24.10.2019 seeking discharge. During its pendency, the Hon'ble Supreme Court passed an interim order dated 11.05.2022 in W.P.(Civil) 682/2021 (**S.G. Vombatkere Vs. Union of India**) regarding Section 124A of the IPC. Relying on this, the petitioner filed another application on 10.11.2022. The Trial Court, vide the impugned order dated 02.09.2024, rejected the discharge application, leading to the present revision.

CONTENTIONS OF THE REVISIONIST



7. The learned counsel for the petitioner vehemently submitted that the Trial Court erred in law and on facts by rejecting the discharge application. It was contended that the Trial Court ought to have first decided the application dated 10.11.2022 seeking compliance with the Hon'ble Supreme Court's interim directions in **S.G. Vombatkere Vs. Union of India, W.P.(Civil) 682/2021** rather than adjudicating the discharge application directly.

8. It was specifically urged that the Hon'ble Supreme Court has clearly held that "All pending trials, appeals and proceedings with respect to the charge framed under Section 124A of IPC be kept in abeyance. Adjudication with other sections, if any, could proceed if the Courts are of the opinion that no prejudice would be caused to the accused". Relying on this, the petitioner argued that the Trial Court was not competent to adjudicate or frame charges under Section 124A of the IPC.

9. The petitioner further contended that the Trial Court failed to comply with the directions issued by this Court on 24.09.2019 in CRR/567/2016. It was submitted that the Trial Court evaded deciding the specific objection regarding the non-compliance of Section 6 of the NIA Act, 2008, by erroneously holding that such an objection is a matter to be adjudicated at the stage of evidence.

10. The revisionist argued that the alleged offences form part of the Schedule to the NIA Act, 2008. As per the statutory mandate, only the Central Government is authorized to determine whether a scheduled offence is made out, which dictates whether the NIA or the State Police should investigate. It



was submitted that in the absence of a single document showing compliance with Section 6 of the NIA Act, cognizance could not have been taken.

11. The petitioner assailed the charges under the UAPA, asserting that the allegations do not satisfy the ingredients of Sections 13 (1) and 17. An objection regarding sanction was also raised. It was submitted that mandatory sanction under Section 45 (2) of the UAPA read with the 2008 Rules was not validly obtained. The petitioner argued that the sanction order does not reveal that the "Authority" was validly appointed by the Central Government, nor does it indicate any proper review of the evidence. It was further alleged that the time limits prescribed under Rules 3 and 4 were violated, making the sanction a nullity.

12. Regarding the IPC charges, the petitioner relied on the judgment in **State (NCT of Delhi) Vs. Navjot Sandhu @ Afsan Guru (AIR 2005 SC 3820)**, quoting:

“The Court must be cautious in adopting an approach which has the effect of bringing within the fold of Section 121 all acts of lawless and violent acts resulting in destruction of public properties etc., and all acts of violent resistance to the armed personnel to achieve certain political objectives. The moment it is found that the object sought to be attained is of general public nature or has a political hue, the offensive violent acts targeted against armed forces and public officials should not be branded as acts of waging war. The expression 'waging war' should not be stretched too far to hold that all the acts of disrupting public order and peace irrespective of their magnitude and repercussions could be reckoned as acts



of waging war against the Government. A balanced and realistic approach is called for in construing the expression 'waging war' irrespective of how it was viewed in the long long past."

13. It was argued that since only one pistol and cartridges were allegedly recovered from another co-accused (Anwar), the ingredients of waging war or concealing a design to wage war (Sections 121A and 123 IPC) are entirely absent against the present petitioner. Lastly, the petitioner submitted that the seized booklets, which form the primary basis of the prosecution, are merely historical documents containing stories about the duties of Muslims in the pre-independence era. It was emphasized that these are public documents, easily available on the internet, and not banned by the Government, thereby negating the charge under Section 124-A of the IPC.

CONTENTIONS OF THE STATE / RESPONDENT

14. *Per contra*, the learned counsel representing the State vehemently opposed the Criminal Revision and supported the impugned order dated 02.09.2024. The State contended that at the stage of framing of charges under Section 227/228 of the Cr.P.C., the Trial Court is only required to evaluate the material on record to ascertain whether a prima facie case is made out against the accused. It was submitted that a mini-trial or meticulous examination of evidence is not permissible at this stage.



15. The respondent further submitted that the seizure of the incriminating booklets, read alongside the overall investigation, constitutes sufficient prima facie material to frame charges under the UAPA and the IPC. The State defended the Trial Court's decision to defer the procedural objections regarding sanction and the NIA Act to the stage of trial, arguing that these are mixed questions of law and fact requiring evidence.

ANALYSIS AND CONCLUSION

16. Heard the parties and perused the record available.

17. Before advertng to the merits of the rival contentions, it is imperative to outline the contours of the revisional jurisdiction under Section 397 read with Section 401 of the CrPC. The jurisdiction vested in this Court is inherently supervisory in nature, intended to correct manifest errors of law, patent illegalities, or jurisdictional overreach committed by Subordinate Courts.

18. The foremost challenge raised by the petitioner is predicated on the interim order passed by the Hon'ble Supreme Court in **S.G. Vombatkere(Supra)**. A careful reading of the order reveals the specific rider/caveat: “Adjudication with other sections, if any, could proceed if the Courts are of the opinion that no prejudice would be caused to the accused”.



19. The Trial Court, in the present case, was faced with a composite charge-sheet involving severe offences under the UAPA alongside Sections 121A and 123 of the IPC, independent of Section 124A of the IPC. The framing of charges under multiple statutes cannot be entirely stalled merely because one of the sections (Section 124A) has been kept in abeyance by the Apex Court. The Trial Court has not committed any patent illegality in proceeding to adjudicate the application for discharge concerning the other distinct and grave offences.

20. As regards the petitioner's contention that the Trial Court failed to strictly comply with the remand order dated 24.09.2019 regarding the non-compliance of Section 6 of the NIA Act, this Court finds that the Trial Court has duly considered the objection. The Trial Court's conclusion that the procedural compliance or non-compliance of the NIA Act requires the adducing of evidence is a plausible judicial view at the charge-framing stage.

21. At the stage of Section 227 of the Cr.P.C., the Court is only required to scan the evidence to find out whether sufficient grounds exist for proceeding against the accused. The complex details regarding whether the Central Government was appropriately informed within the prescribed timeline, or whether the State Police usurped jurisdiction, are matters that require factual foundational proof during the trial.



22. Similarly, the arguments advanced by the petitioner challenging the validity of the sanction granted under Section 45(2) of the UAPA cannot be conclusively determined at this threshold stage. Whether the appointed "Authority" applied its mind independently or whether the internal time-limits under the 2008 Rules were strictly adhered to, are inherently questions of fact that the prosecution must prove during the trial. Rejecting a discharge application on this ground does not amount to a jurisdictional error.

23. The petitioner heavily relied upon the Supreme Court's verdict in **Navjot Sandhu (Supra)** to argue that the recovery of mere booklets or a single pistol from a co-accused does not amount to "waging war." While the legal principles elucidated in the said judgment are undisputed, their application is contextual and fact-dependent.

24. The exact nature of the booklets, their intended audience, their potential to incite violence, and their connection to the larger conspiracy alleged by the prosecution, cannot be evaluated through a mini-trial in revisional proceedings. The prosecution's claim that the booklets contain material attempting to wage war requires a full-fledged trial for conclusive determination. The petitioner's defense that they are merely "historical documents" is a matter of defense evidence.

25. The statutory framework of Sections 13 and 17 of the UAPA, and Sections 121A and 123 of the IPC, involves complex elements of



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conspiracy, intention, and unlawful activity. The threshold to frame a charge is merely a grave suspicion that the accused has committed the offence. Applying the principles to the material on record, it cannot be said that the allegations, even if taken at face value, do not disclose any offence whatsoever.

26. The reliance placed on **S.G. Vombatkere (Supra)** does not grant a blanket immunity from prosecution for other connected offences under the UAPA or the IPC. The Trial Court remains bound by the Supreme Court's directive to keep the trial concerning Section 124A IPC in abeyance, but this does not vitiate the impugned order framing charges for the remaining offences.

27. In light of the limited scope of revisional jurisdiction, this Court finds that the impugned order dated 02.09.2024 does not suffer from any perversity, patent illegality, or jurisdictional error. The Learned Trial Court has rightly evaluated the material on record to form a prima facie opinion for framing charges. There is no manifest error apparent on the record that has resulted in a gross miscarriage of justice requiring the interference of this Court.

28. Consequently, the present Criminal Revision is devoid of merits and is hereby **dismissed**. The impugned order dated 02.09.2024 passed by the Seventh Additional Session's Judge, Ratlam in S.T. Case



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No.262/15 is **affirmed.** The Trial Court shall proceed with the trial in accordance with the law, keeping in mind the interim directions of the Hon'ble Supreme Court in **S.G. Vombatkere Vs. Union of India (Supra)** specifically concerning the charge under Section 124A of the IPC.

No order as to costs.

(Jai Kumar Pillai)

Judge

Aiyer*PS