RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

Judgment reserved on : 03/11/2026

Judgment delivered on : 5/11/2026

Judgment (full) uploaded on : 5/11/2026

D.B. Criminal Appeal (Db) No. 96/2024

CNR: RJHC020227082024 | URN: CRLAD / 180U / 2024

Rajasthan High Court
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1. Mohammed Riyaz Attari Son Of Shri Abdul Jabbar, Aged About 40 Years, R/o 10 B Raja Colony Kishanpole P S Suraj Pole Udaipur Rajasthan And 1052 Khanjipeer Kishanpol Girwa Udaipur Rajasthan (At Present Confined In Central Jail Ajmer)
2. Mohammed Gaus Son Of Shri Rafiq Mohammed, Aged About 39 Years, R/o House No. 24/729, Raja Nagar, Near Kishanpol Police Chowki Police Station Surajpol Udaipur Rajasthan (At Present Confined In Central Jail Ajmer)

----Appellants

Versus

The National Investigation Agency, New Delhi Through Its Special Public Prosecutor

----Respondent

Connected With

D.B. Criminal Appeal (Db) No. 93/2024

CNR: RJHC020220482024 | URN: CRLAD / 177U / 2024

1. Mohsin Khan Son Of Shri Mujaffar Khan, Aged About 25 Years, R/o House No. 18-A, Government Press Colony, Rajanagar, Kishanpole, Police Station Surajpole, District Udaipurwati, Rajasthan. (At Present Confined In Central Jail Ajmer)
2. Aasif Husain Son Of Shri Mohammed Husain, Aged About 23 Years, R/o House No. 245, Mohalla Mahawat Wadi, Near Mahawatwadi, Street Before Government School, Girwa, Udaipur, Rajasthan And Street No. 4, Vijay Singh Pathik Nagar, Police Station Sabeena, District Udaipur, Rajasthan (At Present Confined In Central Jail Ajmer)
3. Mohammad Mohaseen Son Of Shri Mohammed Islam, Aged About 32 Years, R/o Street No. 4, Vijay Singh Pathik Nagar, Police Station Saveena, Udaipur, Rajasthan And 64, Krishna Colony, Sector-9, Saveena (Rural), Udaipur, H Magari, Udaipur, Rajasthan. (At Present Confined In Central Jail Ajmer)
4. Waseem Ali Son Of Shri Imran Ali, Aged About 32 Years, R/o House No. 525/725, Kishanpole, Raja Nagar, Udaipur, Rajasthan And 257, Raja Nagar, Udaipur, Rajasthan. (At Present Confined In Central Jail Ajmer)
5. Mohammed Javed Khan Son Of Shri Mohammed

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Moharram, Aged About 19 Years, R/o House No. 9, Sindhi Sarkar Ki Haveli, Kheradiwala, Police Station Surajpole, District Udaipur, Rajasthan. (At Present Confined In Central Jail Ajmer)

6. Muslim Khan Son Of Late Shri Sher Mohammed, Aged About 41 Years, R/o Mohalla Nai Abadi, Village Parsola, Tehsil Dhariyawad, District Pratapgarh, Rajasthan. (At Present Confined In Central Jail Ajmer)

----Appellants

Versus

The National Investigation Agency, New Delhi Through Its Special Public Prosecutor

----Respondent

For Appellant(s) : Mr. Mohammad Salim
Mr. Syed Saadat Ali with
Mr. Nadeem Qadeer
Ms. Uzma Iliyas
Ms. Aafreen Rizvi
Mr. Sumit Kumar &
Mr. Aatif Aman

For Respondent(s) : Mr. Raja Thakare, ASG (Sr. Adv.) through VC assisted by
Mr. Rohit Khare
Mr. Siddharth Sharma &
Mr. Himanshu Choudhary

DIVISION BENCH

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL

HON'BLE MR. JUSTICE SAMEER JAIN

C.A.V. Judgment

PREFATORY FACTS AND NATURE OF RELIEFS SOUGHT IN THE PRESENT BATCH OF APPEALS :

1. The present batch of appeals arises out of proceedings emanating from the same underlying criminal investigation and involves overlapping questions of fact and law concerning the allegations levelled by the prosecution, the material collected during investigation, and the legality of the order passed by the learned Trial Court at the stage of consideration of discharge and framing of charges. Having regard to the commonality of the

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factual background, the interlaced and interwoven nature of the controversy, and the substantial overlap in the issues requiring adjudication, the matters are being considered and adjudicated upon by way of the present common judgment, so as to ensure consistency in the adjudication of the issues arising therefrom and to obviate the possibility of conflicting determinations.

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2. The genesis of the prosecution case unfolded from the First Information Report (hereinafter referred to as "FIR") and the material collected during the course of investigation, is that the accused-appellants allegedly conspired to commit the murder of deceased Kanhaiya Lal, purportedly on account of certain remarks made by Mrs. Nupur Sharma against Pegambar Mohammed Sahab during a television show. It is alleged that the deceased had shared and forwarded the said remarks through social media, which allegedly provoked the accused-appellants and led them to commit the aforesaid crime. As per the allegations levelled in the FIR, the accused-appellants, being aggrieved by the social media activity of the deceased, allegedly acted in furtherance of their common intention and committed his murder. The prosecution further alleges that the incident was preceded by threats and was connected with the sharing and forwarding of the aforesaid social media message. It is also alleged that the act was intended to hurt religious sentiments and disturb communal harmony.

3. Upon registration of the FIR, the police undertook investigation into the matter, collected the relevant evidence, including the alleged recovered videos and other material, and, upon completion of the investigation, filed a charge-sheet before

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the learned Court concerned against the accused-appellants. The learned Trial Court, vide order dated 12.01.2024, proceeded to frame charges against the accused-appellants for the offences punishable under Sections 120-B, 449, 302, 307, 324, 153-A, 153-B and 295-A of the Indian Penal Code, Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967, and Section 4/25(1-B)(b) of the Arms Act, 1959. Subsequently, vide order dated 13.02.2024, the learned Trial Court formally heard and pronounced the order on charge. Being aggrieved by the aforesaid orders dated 12.01.2024 and 13.02.2024, whereby charges were framed against the accused-appellants, the appellants have preferred the present Criminal Appeal, assailing the legality and correctness of the orders passed by the learned Trial Court.

SUBMISSIONS MADE BY THE LEARNED COUNSEL APPEARING FOR THE APPELLANT(S):

4. It was submitted by learned counsel for the appellants that the learned Trial Court has committed a manifest error and misapplication of mind while framing charges under Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967, without proper appreciation of the factual matrix of the case and the material available on record. It was contended that, as is evident from the bare perusal of the FIR and the allegations contained in the charge-sheet, the incident in question allegedly arose on account of the deceased Kanhaiya Lal having shared and forwarded certain remarks made by Mrs. Nupur Sharma against Pegambar Mohammed Sahab during a television show. However, the alleged act of the deceased, which is stated to have provoked

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the accused-appellants, cannot, by itself, constitute the foundation for invocation of the stringent provisions of the U.A.P.A. against the appellants.

5. It was further submitted that the learned Trial Court has failed to consider that the recovered videos do not contain any words, expressions or material which could, in any manner, be construed as having the tendency to disturb public tranquillity, disrupt social peace or threaten the security of the area. The allegations, as reflected in the FIR, primarily pertain to threats allegedly extended in support of a social media message concerning the Pegambar "Nabi"; however, there is no specific averment indicating any threat directed against any particular person, community, caste or religion so as to attract the penal provisions of the U.A.P.A. It was contended that the prosecution has failed to demonstrate the existence of the essential ingredients requisite for invoking Sections 16, 18 and 20 of the aforesaid enactment.

6. Learned counsel further submitted that there is no material on record to indicate that the accused-appellants were ever members of, or associated with, any unlawful organisation, nor is there any cogent evidence suggesting that the alleged acts were committed in furtherance of the activities of any such organisation. In the absence of any material establishing such association or the requisite nexus with unlawful activities, the framing of charges under the U.A.P.A. is wholly unwarranted. It was also contended that the prosecution material, even if taken at

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its face value, does not disclose the commission of offences under the aforesaid provisions of the Act.

7. It was urged that the learned Trial Court, while passing the impugned orders dated 12.01.2024 and 13.02.2024, has failed to undertake the requisite judicial scrutiny of the allegations and the evidence collected during investigation and has mechanically framed charges under the provisions of the U.A.P.A., without satisfying itself as to the existence of the essential statutory ingredients thereof. Consequently, the charges so framed, being founded upon an erroneous appreciation of the material on record and a manifest misapplication of the law, deserve to be quashed and set aside.

SUBMISSIONS MADE BY THE LEARNED COUNSEL APPEARING FOR THE NON-APPELLANT(S):

8. It is submitted that the offence of criminal conspiracy, particularly in the context of Section 18 of the Unlawful Activities (Prevention) Act, 1967, is of a wide amplitude and encompasses not only the actual commission of a terrorist act but also the conspiracy, attempt, abetment, advice, incitement or knowing facilitation thereof, including any act preparatory to the commission of such an act. The statutory provision does not mandate that the actual terrorist act must necessarily have been accomplished for the offence to be attracted. The preparatory acts and the circumstances preceding the alleged incident may themselves assume significance in determining the existence of a conspiracy. The existence of a conspiracy is ordinarily inferred from the cumulative effect of the conduct of the accused and the

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surrounding circumstances, as direct evidence of an agreement between conspirators is seldom available.

9. It was contended that, in the present case, the allegations in the FIR indicate that the accused-appellants were allegedly provoked by the social media messages shared and forwarded by the deceased Kanhaiya Lal concerning the remarks made by Mrs. Nupur Sharma against Pegambar Mohammed Sahab during a television show. The prosecution case is not confined merely to the individual act of sharing a social media message, but is required to be examined in the context of the alleged threats, the subsequent conduct of the accused-appellants, the recovered videos and the other material collected during investigation. The aforesaid circumstances, when considered cumulatively, are required to be tested during trial and cannot be disjointedly assessed at the stage of framing of charges.

10. It was further submitted that the contention of the appellants that the recovered videos do not contain any specific words capable of disturbing public tranquillity or social peace is premature and misconceived. The nature, import and effect of the alleged statements or expressions cannot be determined solely by isolating particular words from their contextual background. The contents of the recovered videos, the circumstances in which they were recorded or circulated, and their alleged connection with the incident in question are matters requiring proper examination and appreciation of evidence during trial. The absence of any particular expression, by itself, cannot be treated as conclusive proof of the absence of the ingredients of the offences alleged. With regard to

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the contention that no material exists to establish the membership of the accused-appellants in any unlawful organisation, it was submitted that the allegations pertaining to conspiracy and the offences under the U.A.P.A. are required to be examined in the light of the entire material collected during investigation and not merely on the basis of the appellants' assertion regarding the absence of formal membership. The prosecution submitted that the alleged association, concerted conduct and circumstances surrounding the incident are matters which warrant judicial scrutiny through a full-fledged trial. The question as to whether the material ultimately establishes the requisite ingredients of the offences, including those under Sections 18 and 20 of the U.A.P.A., is a matter to be adjudicated upon after the evidence is duly led.

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11. It was submitted that the learned Trial Court has rightly exercised its jurisdiction in framing the charges against the accused-appellants. The impugned orders dated 12.01.2024 and 13.02.2024 do not suffer from any illegality, perversity or manifest error warranting interference by the appellate Court. Accordingly, the present Criminal Appeal deserves to be dismissed and the order framing charges passed by the learned Trial Court deserves to be affirmed.

SCOPE OF ADJUDICATION :

12. The present appeals arise at the stage of framing of charges; hence, the limited inquiry is whether the prosecution material discloses a prima facie case or grave suspicion warranting trial, and not whether the guilt of the appellants stands conclusively established. As per the ratio encapsulated in **State of Bihar v.**

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Ramesh Singh[1], and Sajjan Kumar v. CBI[2], and **State of Tamil Nadu v. Suresh Rajan and Ors.[3]**, at this stage, the Court is not required to conduct a mini-trial or meticulously assess the veracity and evidentiary value of the material, which are matters to be examined during trial. The circumstances relied upon by the appellants are required to be considered cumulatively, without determining their ultimate evidentiary effect at the threshold. Nevertheless, the Court must independently satisfy itself that the essential ingredients of the offences alleged are prima facie made out.

ADJUDICATION OF THE PRAYERS MADE, AS PER THE MERITS/DEMERITS OF THE CASE :

13. Upon consideration of the submissions advanced by learned counsel for the parties and the material available on record, this Court finds no compelling ground warranting interference with the impugned orders framing charges against the appellants. At this stage, the Court is required to ascertain whether the prosecution material gives rise to a *prima facie* case or grave suspicion against the accused, and not to undertake a meticulous examination of the evidence with a view to determining their ultimate guilt or innocence. The Hon'ble Supreme Court, in **Union of India v. Prafulla Kumar Samal[4],** and **Sajjan Kumar v. Central Bureau of Investigation[5]**, has consistently held that where the material on record discloses grave suspicion which remains unexplained,

1 (1977) 4 SCC 39
2 (2010) 9 SCC 368
3 (2014) 11 SCC 709
4 (1979) 3 SCC 4
5 (2010) 9 SCC 368

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the framing of charges is justified. The Court, at such stage, is not required to conduct a mini-trial or evaluate the probative worth of each piece of evidence in isolation. For reference, the relevant extract from **Sajjan Kumar** (supra) is reproduced hereinbelow:

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> *"21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:*
> *(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.*
>
> *(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 f 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***

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documents on record with a view to find out if the facts emerging therefrom taken at their face value dicine 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.

24. ***At the stage of framing of charge under Section 228 CrPC or while considering the discharge petition filed under Section 227, it is not for the Magistrate or the Judge concerned to analyse all the materials including pros and cons, reliability or acceptability, etc. It is at the trial, the Judge concerned has to appreciate their evidentiary value, credibility or otherwise of the statement, veracity of various documents and is free to take a decision one way or the other."***

(Emphasis supplied)

14. Further, reliance can be placed upon the ratio encapsulated in **State of Tamil Nadu v. N. Suresh Rajan and ors.**[6]**;** the relevant extract from which is reproduced hereinbelow:

> *"29. .....It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction.* ***In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has***

6 (2014) 11 SCC 709

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been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

(Emphasis supplied)

15. So far as the objections pertaining to the recovered videos, the absence of specific expressions affecting public tranquillity and the alleged non-membership of the appellants in any unlawful organisation are concerned, the same cannot be accepted as conclusive grounds for discharge in the absence of a comprehensive examination of the prosecution material. The allegations concerning the alleged conspiracy and the circumstances surrounding the incident are required to be appreciated in their entirety. The absence of direct evidence of conspiracy, by itself, cannot be decisive, as such an agreement may be inferred from the cumulative effect of the circumstances, as recognised in **State of Maharashtra v. Som Nath Thapa**[7], **Firozudden Basheeruddin and ors. v. State of Kerela**[8] and **Yash Pal Mittal v. State of Punjab**[9]**.**

16. In view of the foregoing, and the provisions enumerated in section 221*, inter alia,* other provisions of Chapter XVIII of Cr.P.C. wherein it is categorically stated that the accused must be charged for all possible offences, this Court is of the considered opinion that the impugned orders do not suffer from any patent

7 (1996) 4 SCC 659
8 (2001) 7 SCC 596
9 (1977) 4 SCC 540

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illegality, perversity or jurisdictional error. The contentions raised by the appellants essentially pertain to the appreciation and evaluation of evidence, which are matters to be adjudicated upon during trial. Interference at this stage would amount to an unwarranted pre-emption of the prosecution proceedings.

17. Accordingly, the present appeals are devoid of merit and are hereby **dismissed**. The impugned orders dated 12.01.2024 and 13.02.2024 passed by the learned Trial Court framing charges against the appellants are affirmed. It is, however, clarified that the observations made herein are confined solely to the adjudication of the present appeals and shall not influence the learned Trial Court in the independent and impartial appreciation of evidence during trial. The trial shall proceed in accordance with law.

18. Pending applications, if any, shall stand disposed of.

19. A copy of the present order be placed in the connected file.

(SAMEER JAIN),J **(SANJAY K. AGRAWAL),CJ**

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