

HIGH COURT OF DELHI: NEW DELHI

+ CRL. REV. P. NO. 466/2009

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SUKHDEV SINGH & ANR. Petitioners
Through: Mr.Jasminster Singh and
Mr.Prakash Nagar, Advs.

Versus

The STATE (NCT OF DELHI) Respondent
Through: Mr. Lovkesh Sawhney, APP for
State

Judgment reserved on: 10th December, 2009
Judgment delivered on: 23rd December, 2009

Coram:

HON'BLE MR. JUSTICE A.K. PATHAK

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Not
Necessary |
| 2. To be referred to Reporter or not? | Not
Necessary |
| 3. Whether the judgment should be reported in the Digest? | Not
Necessary |

A.K. PATHAK, J.

1. Aggrieved by the framing of charges under Sections 120-B/420/365/366/506 of the Indian Penal Code (for short hereinafter referred to as "IPC") against the petitioners, they have filed this revision petition under Section 397 read with

Section 401 of the Code of Criminal Procedure (for short hereinafter referred to as "Cr.P.C.") praying therein that the order dated 29th May, 2009 passed by the learned Additional Sessions Judge, Delhi be set aside and charges be quashed.

2. Brief facts are that FIR No. 139/2008 under Sections 498-A/406/420/120-B/365/366/342/376/506/34 IPC was registered at Police Station Bindapur, Delhi on the basis of statement of prosecutrix wherein she stated that she aspired to become an Air Hostess; on 13th August, 2007 accused Amit Kumar and Amit Pal Walia contacted her and assured that they would arrange a job for her in some reputed Airline. On 15th August, 2007 they collected Rs. 15,000/- from her and later accused Amit Pal Walia took her to Bombay on 9th September, 2007 for an interview; Accused Amit Kumar and Amit Pal Walia again took Rs. 30,000/- from her and she was taken to Bombay for second round of interview on 30th September, 2007; Again on 8th October, 2007 they informed her that the final round of interview was to take place, for which she was to leave for

Bombay on 12th October, 2007; At that time she was admitted in Colmet Hospital & Medical Research Centre due her to ill health; In the said hospital accused Amit Pal Walia introduced her with the petitioners as his parents. She was discharged from the hospital on 12th October, 2007, when petitioners and other accused persons took her to second floor of house No. F-24, West Patel Nagar, Delhi instead of Bombay and kept her confined there and pressurised her to marry accused Amit Pal Walia. She was also threatened with dire consequences, in case she did not agree to marry accused Amit Pal Walia. On 17th October, 2007 *Sindoor* was put on her forehead by accused Amit Pal Walia and she was forced to exchange garlands. Thereafter, accused persons took her to *Mansa Devi Mandir* on 20th October, 2007 forcibly by threatening her that in case she complained to anyone about the marriage, her brothers would be eliminated. In the meantime, her parents reported to the Police about her disappearance. She was taken to Police Station by the accused persons by extending

threats, not to make statement against them. She was forced to stay with accused Amit Pal Walia as his wife, though he was already married with someone else. She was tortured for dowry and her mother was even forced to pay Rs. 1 lakh and arrange a small function. She was kept locked till 26th March, 2008, when she somehow managed to set herself free and approach the Police.

3. By the impugned order, learned Additional Sessions Judge held as under:-

“At this stage, there are specific allegations levelled by the complainant that all the accused persons were acting in conspiracy with each other and that she was cheated in pursuance to the said conspiracy and was abducted by them with intent to keep her confined and was actually confined and was compelled to marry accused Amit Pal Walia, who was already married and that she was threatened for self as well as her family and accused Amit Pal Walia had sexual intercourse with her against her will. Accordingly, a prima facie charge U/s 120B/420/365/366/506 IPC is made out against all the accused persons. Besides these charges, charge U/s 376 IPC is also attracted against accused Amit Pal Walia. Let the charges be framed and served upon the accused persons.”

4. Learned counsel for the petitioners has vehemently

contended that the prosecutrix was not truthful in making her statements and no reliance thereupon can be placed even at the stage of framing of charge. She had taken shifting stands at different stages of investigations. Her supplementary statements are at variance with her original statement. Her conduct also shows that she was a consenting party and had married accused Amit Pal Walia on her own free will and volition. Petitioners were not the parents of Amit Pal Walia. First of all, it cannot be said that prosecutrix was kidnapped or abducted by Amit Pal Walia with the help of petitioners. Secondly, even if it is, prima facie, taken that he had done so, the petitioners having no connection with the said accused, cannot be roped in and charged under Sections 120-B/420/365/366/506 IPC, more so, when prosecutrix's version that petitioners are parents of accused Amit Pal Walia is incorrect. There was nothing to suggest that petitioners had conspired with the accused Amit Pal Walia and had kidnapped/abducted the prosecutrix. According to learned

counsel for the petitioners, no strong suspicion arises against the petitioners for having committed the offences in respect whereof charges had been framed. Petitioners cannot be forced to go through the ordeal of trial. Reliance has been placed on ***S.C. Rastogi vs. Smt. Renu Kalra reported in 2002 (1) JCC 503*** and unreported judgement of the Supreme Court dated 11th January, 2008 passed in Appeal (Crl.) No. 518/2006 titled Krishna Janardhan Bhat vs. Dattatraya G.Hegde.

5. As against this, learned counsel for the State has contended that material placed on record by the prosecution has to be taken on its face value at the stage of framing of charge. Statement of prosecutrix cannot be looked upon with suspicion at this stage. According to him, ingredients of offences, for which petitioners were charged, were clearly disclosed from the statements of the prosecutrix. Learned Additional Sessions Judge has thus, rightly framed charges against the petitioners.

6. I have considered the rival contentions of the parties and do not find any force in the arguments of the learned counsel for the petitioners. Judgments relied upon by him are in different facts. In my view, order passed by the learned Additional Sessions Judge is in consonance with the well settled principles of law, which are to be taken into consideration at the time of framing of charge.

7. It is well settled that at the stage of framing of charge the court has not to weigh the facts, in a sensitive balance and to conclude that, if proved, the same would be incompatible with the innocence of the accused. At that stage, the court has not to consider as to whether sufficient grounds are available in the facts alleged to base the conviction of the accused. Only a prima facie case is to be disclosed from the facts alleged and the same would be sufficient to frame the charge. Strong suspicion is sufficient to frame the charge. If the facts alleged disclose the commission of offence on general consideration of the materials placed before the Court by the investigating

agency, that by itself would be sufficient to frame the charge. Sufficiency of the material to establish the offence alleged against the accused beyond shadow of reasonable doubt, has not to be looked into. Court is not supposed to delve deeply into the merits of the matter and start a roving enquiry into the evidence, that is, brought forth before it, as if conducting a trial in arriving at a conclusion as to whether prima facie case was disclosed or not. Court has to only consider the material placed before it by the investigating agency and the material produced before it has to be considered and taken on its face value.

8. In **Akash Deep vs. State** reported in **MANU/DE/2233/2009** this Court held as under :-

“Thus it is settled position of law that at the time of framing of charge, the Court is not supposed to look into the evidence of the case in detail and is only to consider whether there is a strong suspicion against the accused on the basis of the material that comes before it. The court has the power to sift the evidence for the limited purpose of finding out, whether or not a prima facie case is made out against the accused. However, the Court is not supposed to delve deeply into the merits of the matter and start

a roving expedition into the evidence that is brought forth it, as if conducting a trial. Further there is no one fixed definition that may be ascribed to the term prima facie nor can the term strong suspicion have a singular meaning. While coming to the conclusion of a strong prima facie case or strong suspicion, the Court shall have to decide each case on the basis of its own independent facts and circumstances.”

9. The statement of the prosecutrix cannot be disbelieved at the stage of framing of charge and, in my view, has rightly been considered by the learned Additional Sessions Judge to hold that a prima facie case was disclosed against the petitioners for having committed the offences. Prosecutrix had categorically stated that the petitioners along with accused Amit Pal Walia came in the hospital and from there they took her to second floor of house No. F-24, West Patel Nagar, Delhi where they kept her in confinement. They also exerted pressure on her to marry Amit Pal Walia. She was also taken to *Mansa Devi Mandir* by the accused persons by extending threats with dire consequences that in case she disclosed this fact to anyone, her brothers would be eliminated. Veracity of

her version would be tested when she steps in the witness box.

At this stage, her this statement has to be accepted to form a prima facie view.

10. In the light of the above discussion, I do not find any illegality, material irregularity or impropriety in the impugned order passed by the learned Additional Sessions Judge.

11. Dismissed.

A.K. PATHAK, J

December 23, 2009

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