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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

# **CNR No. DLHC010162062022**

+ **CRL.REV.P. 250/2022**

**THE STATE (NCT OF DELHI)**

.....Petitioner

Through: Mr. Shoaib Haider, APP.  
SI Prayanka Gupta, PS Preet Vihar.

versus

**SAURABH SHARMA**

.....Respondent

Through: None.

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**

**ORDER**

% **19.08.2026**

1. The present revision petition has been filed by the State under Section 397 read with Section 401 of the Code of Criminal Procedure (Cr.P.C.) against the impugned judgment dated 15.12.2021 passed by learned Additional Sessions Judge (SFTC), East District, Karkardooma Courts, Delhi in relation to FIR No.206/2019, registered at Police Station Preet Vihar, Delhi, for the offences punishable under Section 376 and 506 of the IPC. By the impugned order, the trial court has discharged the respondent of both the offences.

2. The facts of the case indicate that the prosecutrix is a widow; her husband passed away on 17.04.2018, leaving behind two kids for her to look after. It was at the instance of one mutual acquaintance that the prosecutrix was introduced to the accused/respondent for the purpose of



securing a job. Following the same, the prosecutrix and the accused/respondent established a consensual physical relationship between them on the respondent's assurance that he would marry her. Later, upon making an approach by the prosecutrix to talk to his family about the same, they refused to accept the alliance and the marriage between them; subsequently, the accused/respondent changed his contact details and created distance from the prosecutrix.

3. Later, on some occasion, the accused/respondent met the prosecutrix and threatened her with dire consequences in the event of her lodging any complaint against the accused/respondent. Consequently, on the aforesaid allegations, FIR no. 206/2019 was registered on 12.12.2019 at Police Station Preet Vihar under Sections 376 and 506 IPC. Based on the aforesaid, investigation was performed and, upon completion of the same, a chargesheet under Section 173 Cr.P.C was filed against the respondent, and the matter was committed to the Court of Sessions, registered as SC No. 10/2021.

4. The respondent filed two applications under Section 483 Cr.P.C which were dismissed vide orders dated 20.12.2019 and 30.12.2019; the respondent was granted anticipatory bail during the pendency.

5. After conducting the trial, the Trial Court, vide impugned judgment, did not find sufficient material against the respondent to hold him guilty under Section 376(2)(n) of the IPC and Section 506 of the IPC.

6. Learned counsel for the State submits that the findings rendered by the Trial Court are perverse. The Trial Court failed to appreciate the material available on record. That the consent of the prosecutrix was obtained on a false pretext of marriage and that a prima facie case under the



above-mentioned section is made out against the accused.

7. The Court, however, finds that in paragraphs 11 & 12 of the impugned judgment, it has been noted that there is no evidence that on the false pretext of marriage, the accused had established physical relations with the prosecutrix. The relevant para is as under-

*11. In view of aforesaid facts and circumstances and the judgments, prima facie there is no grave suspicion that prosecutrix gave consent to sexual intercourse that accused will marry her and therefore, consent of the prosecutrix was not valid consent, hence in my view, prima facie there is no evidence to frame charge against the accused u/s 376 IPC*

*12. As far as offence u/s 506 IPC is concerned, the prosecutrix has only stated that on 01.12.2019, the accused met her at Preet Vihar Metro Station and told her that if she complained to anybody, then it would not be good and he would get her children kidnapped and would kill her. She has not given any specific time when the accused met her. She did not call the police on 100 number on the day when the said incident happened and has lodged the complaint on 12.12.2019, i.e after 12 days of the alleged threat. Hence, the same appears to be an afterthought. Therefore, considering the abovesaid facts and circumstances, there is no grave suspicion that the accused has criminally intimidated the prosecutrix.*

8. It is an admitted position that a victim engaging in a long-term consensual relationship cannot later turn around and allege lack of valid consent, unless it is conclusively shown that the accused had bad faith and deceitful intent right from day one. The Court in **Deepak Gulati v. State of Haryana**<sup>1</sup> held-

*21. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry*

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<sup>1</sup>(2013) 7 SCC 675



*the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.*

9. At the stage of framing of charge only prima facie evidence is to be seen and evidence is not to be meticulously examined. The law on this particular aspect has been well pronounced in the case of **Sajjan Kumar v. CBI**<sup>2</sup>

*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 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*

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<sup>2</sup>(2010) 9 SCC 368



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 Yuments on record with a view to find out if the facts emerging therefrom taken at their face de disclose 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 up in conviction or acquittal.

10. Reference may be made to the decision of the Supreme Court in **Amit Kapoor v. Ramesh Chander and Anr.**<sup>3</sup> where the court held-

12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error, and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bear a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored, or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

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20. The jurisdiction of the court under Section 397 can be exercised to

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<sup>3</sup> (2012) 9 SCC 460



*examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression "prevent abuse of process of any court or otherwise to secure the ends of justice", the jurisdiction under Section 397 is a very limited one.* The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily

11. Further, in the case of the ***State of M.P. v. S.B. Johari and Ors.***<sup>4</sup>, the Supreme Court held that a charge is liable to be quashed where the evidence which the prosecution proposes to lead, even if fully accepted and unchallenged, would not show that the accused had committed the offence-

*4. ....It is settled law that at the stage of framing the charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate the evidence and arrive at the conclusion that the materials produced are sufficient or not for convicting the accused. If the court is satisfied that a prima facie case is made out for proceeding further, then a charge has to be framed. The charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged by cross-examination or rebutted by defence evidence, if any, cannot show that the accused committed the particular offence. In such case, there would be no sufficient ground for proceeding with the trial. In Niranjana Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijayya after considering the provisions of Sections 227 and 228 CrPC, the Court posed a question, whether at the stage of framing the charge, the trial court should marshal the materials on the record of the case as he would do on the conclusion of the trial. The Court held that at the stage of framing the charge inquiry must necessarily be limited to deciding if the facts emerging from such materials constitute the offence with which the accused could be charged. The court may peruse the records for that limited purpose, but it is not required to marshal it with a view to decide the reliability thereof. The Court referred to earlier decisions in State of Bihar v. Ramesh Singh, Union of India v. Prafulla Kumar Sama and Supdt&*

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<sup>4</sup> (2000) 2 SCC 57



*Remembrancer of Legal Affairs, W.B. v. Anil Kumar Bhunja and held  
thus: (SCC p. 85, para 7)*

12. Based on the facts and circumstances of the case, this Court finds that the view taken by the Trial Court cannot be said to be perverse, illegal or otherwise unsustainable in law.
13. The petition fails and is hereby dismissed.

**PURUSHAINDR KUMAR KAURAV, J**

**AUGUST 19, 2026**  
Ab/as