



\$~66

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

CNR No. DLHC010231372022

+ **CRL.REV.P. 377/2022**

STATE NCT OF DELHI

.....Petitioner

Through: Ms. Shubhi Gupta, APP.
SI Nitesh Mahiya PS Sagarpur.

versus

KAMAL KHURANA

.....Respondent

Through: Ms. Arti Bansal & Ms. Shruti Goel,
Advocates.

CORAM:

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 order dated 24.01.2020 passed by learned Additional Sessions Judge (NPDS), Patiala House, New Delhi in relation to FIR No.723/2015 for the offences punishable under Section 506/509 of the IPC at Police Station Sagarpur, Delhi whereby respondent has been charged.
2. The Magistrate framed charges for offences under Section 506 Part II/509 of the IPC; however, in a revision filed by the other side, the Revisional Court has discharged the accused for the said charges
3. The facts of the case are that the complainant had lodged an FIR on 11.09.2015 for commission of offences under section 506/509 IPC. In the



said complaint, she stated that on 02.11.2012 she received a call on her landline number from 23017628, and thereafter, on the phone, she was abused and further threatened that the dead body of her husband would be dispatched to his house and also being threatened to leave him; otherwise, she would be killed. On hearing the same, she became unconscious; however, after pouring water on her face, she regained consciousness. When she told this fact to other family members, they also became unconscious; thereafter, the entire family became tense. Then her Jeth called her husband, who was found to be ok. Later on, her husband made a written complaint regarding this fact in the PS. However, in the meantime, her husband developed suspicion over one Kamal Khurain in the office, who also admitted the fact of calling during inquiry at the office. She further alleged that because of this trauma, her father-in-law died. Pursuant to this complaint dated 11.09.2015, the FIR was registered on 12.09.2015.

4. Upon perusal of the findings at pages 22 & 23 of the petition, the Court finds that there is no substance in the instant petition. The relevant paragraph is stated as under-

Heard, Record perused, it is settled law that at the stage of charge, this court only has to see the prima facie case and not to sift the probative value of material on record. Admittedly, the allegations of threatening were of 02.11.2012; however, there is nothing on record that in between, any complaint is filed, and the matter is reported before police belatedly vide complaint dated 11.09.2015. It is pertinent to see that in the complaint dated 11.09.2015, there is no mention of any person who has made the said call, though alleged that the entire family got frightened. The involvement of the accused in the said complaint found later on during disciplinary inquiry, and this accused was found guilty of misconduct in the said inquiry and warned to be careful in future. The said inquiry was concluded on 28.02.2014., however, thereafter no complaint was filed, and complaint was filed only on 12.09.2015. The husband of complainant and accused found to be working in same office. Rajesh, the husband of complainant in his statement u/s 161 CrPC could not disclose



any reason of enmity between both of them. Although the factum of call dated 02.11.2012 is prima facie established however the ingredients of mere threatening do not make out the offence of section 506 IPC. Even on the day of calling there is nothing which could show that complainant knew about the fact that call is made by accused. Furthermore, it is not clear why the threatening call was made. Though during departmental inquiry the accused admitted the factum of call and hurling of abuses and threatenings but motive conspicuously absent. The threatenings, which are even without motive prima facie do not appear at all in the nature of causing alarm hence no prima facie offence u/s 506(II) IPC is made out. No charge of 506(II) IPC made out then merely on the basis of abuses or threatenings on telephone call, however even if the ingredients of 509 IPC are made out then also the case is barred by limitation. Accordingly, the impugned order dated 12.09.2019 of framing of charge is set aside. Accused stands discharged.

Revision petition allowed accordingly, Copy of order along with TCR be sent back to Ld. Trial Court. Copy of the order be also given dasti.

5. The reference can be made to the Supreme Court decision in the case of Union of India v Prafulla Kumar Samal¹ The Court held-

10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code 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.

(2) 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.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution,

¹ (1979) 3 SCC 4



*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 appearing in the case and so on. **This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.***

6. In the case of Asim Shariff v. National Investigation Agency² The Supreme Court states that at the stage of charge, though no mini-trial is expected, the Courts must bear in mind the prima facie case against the accused. The Court held-

*18. Taking note of the exposition of law on the subject laid down by this Court, it is settled that the Judge while considering the question of framing charge under Section 227 CrPC in sessions cases (which is akin to Section 239 CrPC pertaining to warrant cases) **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;** where the material placed before the court discloses grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing the charge; by and large if two views are possible and one of them giving rise to suspicion only, as distinguished from grave suspicion against the accused, the trial Judge will be justified in discharging him. It is thus clear that while examining the discharge application filed under Section 227 CrPC, **it is expected from the trial Judge to exercise its judicial mind to determine as to whether a case for trial has been made out or not. It is true that in such proceedings, the court is not supposed to hold a mini trial by marshalling the evidence on record***

7. In the instant case, it has come on record that the alleged threat was made on 02.11.2012 whereas the complaint was lodged on 11.09.2015. Such a huge delay in filing of an FIR, which remained unexplained, was one of the reasons. As held by the Supreme Court in Mohd. Wajid and Anr. v. State of Uttar Pradesh and Ors.³, that delay in lodging of FIR without

² (2019) 7 SCC 148

³ (2023) 20 SCC 219



substantial reasons may become a ground of discharge-

42. In the aforesaid context, we may clarify that delay in the registration of the FIR, by itself, cannot be a ground for quashing of the FIR. However, delay with other attending circumstances emerging from the record of the case rendering the entire case put up by the prosecution inherently improbable, may at times become a good ground to quash the FIR and consequential proceedings. If the FIR, like the one in the case on hand, is lodged after a period of more than one year without disclosing the date and time of the alleged incident and further without any plausible and convincing explanation for such delay, then how is the accused expected to defend himself in the trial. It is altogether different to say that in a given case, in the course of investigation the investigating agency may be able to ascertain the date and time of the incident, etc. The recovery of few incriminating articles may also at times lend credence to the allegations levelled in the FIR. However, in the absence of all such materials merely on the basis of vague and general allegations levelled in the FIR, the accused cannot be put to trial.

8. Bearing in mind the overall facts and circumstances of the case, no interference is made out.
9. The petition fails and is hereby dismissed.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 19, 2026

Ab/ad