

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-51521-2022

Reserved on: 09.11.2022

Date of Decision: 11.11.2022

Supriya Jain

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. R.S. Rai, Senior Advocate, with
Mr. Sangram S. Saron, Advocate, for the petitioner.

HARNARESH SINGH GILL, J.

The petitioner seeks quashing of the order dated 18.07.2022 passed by the Chief Judicial Magistrate, Kurukshetra, whereby charges under Sections 406, 420, 506, 379 and 120-B IPC, were framed against the petitioner and the order dated 27.9.2022, whereby revision against the said order was dismissed by the learned Additional Sessions Judge, Kurukshetra.

Learned Senior Counsel appearing for the petitioner submits that the proceedings arising out of FIR No. 658 dated 02.08.2020 under Sections 120-B, 406, 420, 506 IPC and Section 379 IPC added later on, registered at Police Station City Thanesar, Kurukshetra, are a clear abuse of law as the said case has been falsely got registered against the petitioner under the influence of the husband of the complainant-respondent No.2, who happens to be a senior Police Officer in the Haryana Police. It is further contended that the impugned order framing the

charges against the petitioner is totally illegal, unjust and without there being any prima-facie material on record against the petitioner; that even in the complaint on the basis whereof the FIR was registered, there was no allegation against the petitioner worth her name and/or participation in the crime and any transactions being made with her or any money having been transferred to her or in her account; that the petitioner is a practicing Advocate at Delhi having about 15 years' standing at Bar; that the Income Tax Returns for the years 2017-18, 2018-19 and 2019-20 would reveal that the petitioner has only one source of income; that the petitioner has been dragged in the occurrence only for being real sister of Priyanka Mittal @ Purnima Jain and that the alleged transactions, if any, are with said Priyanka Mittal @ Purnima Jain.

While laying emphasis on the aforesaid factual position, the learned Senior Counsel would contend that both the Courts below have, while passing the impugned order, totally ignored it and thus, the impugned orders are liable to be quashed by this Court.

Reliance is placed upon Vikram Johar Vs. State of Uttar Pradesh and another, (2019)14 SCC 207 to contend that the test to determine a prima-facie case would naturally depend upon the facts of each case and no rule of universal application can be laid down. Reliance is also placed upon Dilawar Balu Kurane Vs. State of Maharashtra, (2002)2 SCC 135, to contend that at the stage of framing of the charge, the Court cannot act

like a post office and it has to sift and weigh the evidence even for that limited purpose.

I have heard the learned counsel for the petitioner and gone through the impugned orders.

It is settled law that at the time of framing of the charge(s), the Court is required to see whether a prima-facie case is made out against the accused and that neither the entire evidence is required to be examined nor a mini trial is to be done.

Very recently in Ghulam Hassan Beigh Vs. Mohammad Maqbool Magrey & Ors., 2022(4) RCR (Criminal) 45, the Hon'ble Supreme Court, while reiterating the entire case law on the framing of charge(s), has held that at this stage, only a prima-facie case is required to be seen and the trial Court cannot hold a mini-trial. It was held as under:-

"22. There are several other judgments of this Court delineating the scope of Court's powers in respect of the framing of charges in a criminal case, one of those being Dipakbhai Jagdishchandra Patel v. State of Gujarat, (2019) 16 SCC 547, wherein the law relating to the framing of charge and discharge is discussed elaborately in paragraphs 15 and 23 reply and the same are reproduced as under:

"15. We may profitably, in this regard, refer to the judgment of this Court in State of Bihar v. Ramesh Singh wherein this Court has laid down the principles relating to framing of charge and discharge as follows:-

"4.....Reading Sections 227 and 228 together in juxtaposition, as they have got to be, it would be clear that at the beginning and initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of

the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the court should proceed with the trial or not. If the evidence which the prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial.... If the scales of pan as to the guilt or innocence of the accused are something like even at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have

to be made will be one under Section 228 and not under Section 227."

"23. At the stage of framing the charge in accordance with the principles which have been laid down by this Court, what the Court is expected to do is, it does not act as a mere post office. The Court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the prosecution. The sifting is not to be meticulous in the sense that the Court dons the mantle of the Trial Judge hearing arguments after the entire evidence has been adduced after a full-fledged trial and the question is not whether the prosecution has made out the case for the conviction of the accused. All that is required is, the Court must be satisfied that with the materials available, a case is made out for the accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be such as can be translated into evidence at the stage of trial. The strong suspicion cannot be the pure subjective satisfaction based on the moral notions of the Judge that here is a case where it is possible that accused has committed the offence. Strong suspicion must be the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the prima facie view that the accused has committed the offence. "

xx

xx

xx

26. In the case of State of Karnataka v. M.R. Hiremath, reported in (2019) 7 SCC 515, this Court held as under:-

"25. The High Court ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of section 239 CrPC, 1973. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the

ingredients necessary to constitute the offence. In State of T.N. v. N. Suresh Raian, (2014) 11 SCC 709, adverting to the earlier decisions on the subject, this Court held: (SCC pp. 721-22, para 29)

"29. ... 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 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. "

It could not be pointed out that the investigation conducted in the case, on the basis whereof sufficient material was found against the petitioner and accordingly, the charges, were framed, was lacking in any manner. Still further, mere framing of the charges does not hold the petitioner guilty. The petitioner is at liberty to lead evidence in support of her innocence during the trial.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

11.11.2022
ds

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No