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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 15.09.2023***Pronounced on: 18.09.2023***

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CRL.REV.P. 972/2023**SAGAR AND ANR.**

..... Petitioners

Through: Mr. Pardeep Khatri, Ms. Rimpay Khatri, Mr. Sandeep Rana, Mr. Rishu @ Rishabh Rajput, Mr. Utkarsh Singh Chhikara, Mr. Ajay Pratap Singh Tomar and Mr. Deepak, Advocates.

versus

THE STATE GNCT OF DELHI

...Respondent

Through: Mr. Manoj Pant, APP for the State.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The present revision petition has been filed under Section 397/401 read with Section 482 of Code of Criminal Procedure, 1973 ('Cr.P.C.') seeking setting aside of the impugned order on charge dated 19.07.2023 passed by learned Additional Sessions Judge-03, North District, Rohini Courts, Delhi ('Trial Court') in SC No. 915/2022 whereby the learned Trial Court has framed charges under



Section 228 of Cr.P.C. against the petitioners for offences under Section 304B/498A/323/34 of Indian Penal Code, 1860 (*IPC*).

2. Briefly stated, the facts of the present case are that the present FIR was registered on the complaint of complainant Jai Narain who had stated that the marriage between his daughter Rajni and Abhishek was solemnized on 10.10.2019 in Chandigarh, in which, he had spent beyond his means and had even borrowed money from his friend. It was further alleged by the complainant shortly after marriage of his daughter, she used to tell him that her mother-in-law Raj Bala and father-in-law Pradeep Kumar used to harass her for demand of dowry and used to fight on petty issues. It was further stated that the family members of his son-in-law Abhishek used to instigate her daughter for the demand of dowry and used to tell her that the status of her father is not of same standard as of them. It was alleged by the complainant that when his daughter was pregnant, her in-laws and husband used to beat her for the demand of dowry. The complainant was further informed by her daughter that her sister-in-law and brother-in-law used to snatch food from her and used to beat her badly, which even caused her tremendous stress during the period of her pregnancy. This had even led her to give birth to a child that was unwell at the time of birth and her treatment went on for about three months after the birth of her child. It is further stated that the husband of the daughter of the complainant works in Delhi Police and thus, had a position of authority. The complainant was informed by husband of his daughter, i.e. Abhishek, on 17.10.2020 that his daughter had passed away, after which they came with her dead body



on 18.10.2020. Thereafter, the complainant had got the present FIR registered as he had strong belief that her daughter was murdered by her in-laws and her husband for the demand of dowry.

3. It is stated by learned counsel for petitioners that the allegations, if any, against the petitioners are vague in nature and no offence is made out against them. It is stated that the learned Trial Court has committed an error by not going through the complaint and the settled principles of law regarding charge. Learned counsel for petitioner also states that the polygraph test which was conducted during investigation does not support the prosecution case and therefore, the petitioners be discharged.

4. Learned APP for the State draws attention of this Court to the chargesheet and the statements of the witnesses which were recorded during investigation. It is stated that there are specific allegations of beating by the present petitioners as well as snatching food and harassing and taunting the deceased for bringing insufficient dowry. It is also stated that there are specific allegations in the statement of the mother of deceased regarding receiving phone call on 14.10.2020 wherein she had informed her about she being tortured for non-fulfilment of demand of dowry and that her life had become difficult. She had also told her mother that they are troubling her too much to bring dowry. She had also told her that her life and the baby's life have become difficult and they can do anything to her. The learned APP for the State also states that as per investigation and the charge sheet, the call detail records substantiate the claim regarding phone calls made by the victim to her family and therefore, present petition



be dismissed.

5. This Court has heard arguments addressed by learned counsel for the petitioners and learned APP for the State and has perused material on record.

6. The impugned order dated 19.07.2023 passed by learned Trial Court *vide* which charges were framed in the present case, reads as under:

“The counsel for the accused persons has submitted that the accused persons have been falsely implicated in the present case and they have nothing to do with the offence as alleged against them. Hence it is prayed that they may kindly be discharged from the present case.

On the other hand, Ld. Counsel for the complainant as well as Ld. Adell. PP for the State have opposed the submissions of the counsel for the accused persons. They have submitted that accused persons used to harass the deceased Rajni on account of dowry and forced her to commit suicide and there are incriminating evidence against them. It is prayed that seeing the gravity of the offence, charge should be framed against them.

From the material available on record, a prima facie case for commission of offence punishable **u/s 304-B/498A/323/34 IPC** is made out against the accused persons and accordingly, **charge u/s 304-B/498A/323/34 IPC** has been framed against the accused to which they have pleaded not guilty and claimed trial. Reliance is placed upon the case law laid down by the Hon'ble Supreme Court of India in case of **Kanti Bhadra Saha Anr. Vs. State of West Bengal**" wherein it has been held that:

"there is no legal requirement for the trial court to write a reasoned or lengthy order for framing the charges"

The said proposition of law has also been reiterated by the Hon'ble Supreme Court in case of **"Munni Devi vs State of Rajasthan, Crl.A.No.1138/2001 decided on 06.11.2001** that no detailed order is required to be passed at the time of framing of charge.



There are directions from the Hon'ble Supreme Court of India to expedite the trial.

Let the witnesses no.1 to 3 mentioned in the list of witnesses, DO and IO be summoned for the next date.

Put up for PE on **09.08.2023**. MHC(M) with case property be also summoned."

7. In *Amit Kapoor v. Ramesh Chander* (2012) 9 SCC 460, the Hon'ble Supreme Court enlisted certain principles with reference to exercise of power under Section 397 and Section 482 of Cr.P.C. by the Courts while deciding as to whether the charges framed against an accused be quashed or not. The principles enunciated by the Hon'ble Apex Court are as under:

"27. Having discussed the scope of jurisdiction under these two provisions, i.e., Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can



ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loathe to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

27.6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

27.7. The process of the Court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

27.8. Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a “civil wrong” with no “element of criminality” and does not satisfy the basic ingredients of a criminal offence, the Court may be justified in quashing the charge. Even in such cases, the Court would not embark upon the critical analysis of the evidence.

27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.10. It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence



collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

27.11. Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

27.12. In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed with by the prosecution.

27.13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

27.14. Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

27.15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae, i.e. to do real and substantial justice for administration of which alone, the courts exist.

27.16. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance to the requirements of the offence."

8. Similarly, in a recent decision in *Manendra Prasad Tiwari v.*



Amit Kumar Tiwari and Anr. 2022 SCC OnLine SC 1057, the Hon'ble Apex Court has explained the well- settled law on exercise of powers under Section 397 and 482 Cr.P.C. as under:

"21. The law is well settled that although it is open to a High Court entertaining a petition under Section 482 of the CrPC or a revision application under Section 397 of the CrPC to quash the charges framed by the trial court, yet the same cannot be done by weighing the correctness or sufficiency of the evidence. In a case praying for quashing of the charge, the principle to be adopted by the High Court should be that if the entire evidence produced by the prosecution is to be believed, would it constitute an offence or not. The truthfulness, the sufficiency and acceptability of the material produced at the time of framing of a charge can be done only at the stage of trial. To put it more succinctly, at the stage of charge the Court is to examine the materials only with a view to be satisfied that prima facie case of commission of offence alleged has been made out against the accused person. It is also well settled that when the petition is filed by the accused under Section 482 CrPC or a revision Petition under Section 397 read with Section 401 of the CrPC seeking for the quashing of charge framed against him, the Court should not interfere with the order unless there are strong reasons to hold that in the interest of justice and to avoid abuse of the process of the Court a charge framed against the accused needs to be quashed. Such an order can be passed only in exceptional cases and on rare occasions. It is to be kept in mind that once the trial court has framed a charge against an accused the trial must proceed without unnecessary interference by a superior court and the entire evidence from the prosecution side should be placed on record. Any attempt by an accused for quashing of a charge before the entire prosecution evidence has come on record should not be entertained sans exceptional cases.

22. The scope of interference and exercise of jurisdiction under Section 397 of CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused



has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage the final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of Code of Criminal Procedure

23. Section 397 CrPC 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 or the perversity which has crept in the proceeding."

9. The law regarding framing of charge and discharge is contained under Sections 227 and 228 of Cr.P.C. While deciding as to whether a Court should either frame charges against an accused or discharge the accused, the Court is required to look into the facts and circumstances of the case and due consideration needs to be given to the material placed on record along with the investigation and the facts determined therefrom. From the said information, the Court is required to ascertain if the essential ingredients of an offence are *prima facie* made out or not. It is impermissible to conduct an in-depth appreciation of evidence and roving inquiry into the pros and cons of the case since a Court is not allowed to conduct a mini trial while passing an order on charge. [See *Sajjan Kumar v. C.B.I.* (2010) 9 SCC 368; *Asim Sharif v. National Investigation Agency* (2019) 7 SCC 148; *Dipakbhai Jagdishchandra Patel v. State of Gujarat* (2019) 16 SCC 547; and *Vikram Johar v. State of Uttar Pradesh & Anr.* 2019 SCC OnLine 609]



10. After perusal of the statement of complainant under Section 164 of Cr.P.C., this Court notes that the complainant had made specific allegations against the present petitioners/accused and the same supports the case of prosecution. It was alleged in the statement that the in-laws of his daughter used to harass and taunt her for demand of dowry and even used to deny her food on account of the same. It was further stated that when the complainant was unable to meet his daughter during period of Covid-19, he was informed on 15.10.2020 at 7:30 PM that his daughter has been missing from her matrimonial home since 2:30 PM by her mother-in-law, and that they had already filed a missing complaint. Thereafter, the complainant to his utter shock was informed on 17.10.2020 by his son-in-law that his daughter has died on the railway track. This Court also notes that the complainant's statement under Section 161 of Cr.P.C. supports the case of prosecution and reiterates the facts as mentioned above.

11. This Court has also perused the statement of brother of deceased, i.e. Ashish recorded under Section 161 of Cr.P.C., and the same reveals that his sister was harassed on account of demand of dowry. It has also been stated that the sister-in-law and brother-in-law of the deceased used to snatch food from her and used to beat her badly. It was further stated that his sister Rajni had told him that some relatives will visit her matrimonial home and try to solve the issues in her marriage, after which she would call him on 18.10.2020. The brother of the deceased further stated to police that the call never came and he was informed by her husband that her dead body has been found on railway track on 17.10.2020. A perusal of statement of



sister of the deceased recorded under Section 161 of Cr.P.C. reveals that it supports the case of prosecution.

12. In view of the above facts and circumstances, and that the post-mortem report, and the statements of witnesses which support the case of prosecution, this Court observes that there is no ground for setting aside the impugned order on charge as the learned Trial Court has passed a detailed order, stating the reasons on which the conclusion has been arrived at. As far as result of polygraph test is concerned, it is corroborative piece of evidence and its evidentiary value will be decided at appropriate stage of trial and it cannot become sole basis of discharge.

13. Accordingly, the present revision petition alongwith any pending applications stands dismissed being devoid of merits.

14. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression on the merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 18, 2023/ns