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

% **Date of decision: July 27, 2023**

+ **CRL.REV.P. 727/2017 & CRL.M.A. 15955/2017 (stay)**

SUMIT KAUSHAL & ORS

..... Petitioners

Through: Mr. Vishesh Wadhwa,
Ms. Swadha Gupta and
Mr. Abhay Gahlot, Advocates.

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr. Utkarsh, APP for State/R-1
with SI Kamlesh Meena, P.S.
Sagar Pur.

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T (oral)

1. The present criminal revision petition is filed under section 397/401 Cr.P.C. read with section 482 Cr.P.C. to set aside the impugned order dated 21.07.2017 passed by the concerned trial court whereby the charges were ordered to be framed against the petitioners.

2. FIR bearing no.0172/2016 dated 29.02.2016 was got registered under sections 328/307/366/376/34 IPC on the basis of complaint made by the respondent no. 2 wherein the petitioners were implicated.

The charge-sheet was filed after conclusion of investigation for the offences punishable under sections 376/323/34 IPC.



3. The Court of Additional Sessions Judge (SFTC), Dwarka Courts, New Delhi vide impugned order dated 21.07.2017 ordered to frame the charges against the petitioner no. 1/Sumit Kaushal for the offences punishable under sections 328/366/394/376/307/506(II) IPC and against the petitioners no. 2 and 3 for the offences punishable under sections 323/34 IPC. The impugned order dated 21.07.2017 reads as under:-

“21.07.2017

Heard submissions on charge.

There is sufficient material on record to proceed against accused Sumit Kaushal U/s 328/366/394/376/307/506(11) IPC and against accused Sujeta & Bhagwan Dass for the offence punishable 323/34 IPC.

Charge is framed accordingly against accused persons, they pleaded not guilty. Matter now to come up for PE on 19.08.2017.

Prosecutrix be summoned through Investigating Officer for next date.

IO be also summoned.”

4. The counsel for the petitioners argued that the charges were framed without considering the material collected during the



investigation as reflected from the charge-sheet and the trial court has not given any reason for framing the charges as mentioned in the impugned order dated 21.07.2017. The trial court has framed the charges against the petitioners in utter violation of settled principle of law. The counsel for the petitioners, during the course of arguments, has referred the judgment passed by the Supreme Court in Criminal Appeal bearing no. 175/2013 dated 23.01.2013 titled as **Prashant Bharti V State of NCT of Delhi**, 2013 (9) SCC 293 and judgment passed by the coordinate bench of this court in Criminal Revision Petition bearing no. 574/2016 dated 15.09.2016 titled as **Smt Kavita V State (Govt of NCT of Delhi) & Anr.**, 2016 SCC OnLine Del 5382.

5. The counsel for the respondent no. 2 argued that the trial court has rightly framed the charges on the basis of material collected during the investigation and culminated into filing of the charge-sheet as per section 173 Cr.P.C. There is no reason to interfere in the impugned order dated 21.07.2017.

6. The Additional Public Prosecutor for the State/respondent no. 1, in his fairness, stated that although the trial court has framed the



charges on the basis of material collected during the investigation but minimum reasons are not given for framing of charges for the offences for which the charge-sheet is filed before the concerned court.

7. The trial court at the time of consideration of framing of charges, has power to shift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case is made out against the accused and the test to determine a prima facie case is actually made out or not depends on the facts and circumstances of the case. Although the court is not required to give detailed reasons at the time of consideration of the charge but simultaneously, framing of charges is an important part of the trial and the charges cannot be framed casually without assigning the minimum reasons. The impugned order dated 21.07.2017 whereby the charges were ordered to be framed is devoid of any reason and the trial court has only mentioned that there is sufficient material on record to proceed against the petitioners.

8. Accordingly, the impugned order dated 21.07.2017 is set aside and the case is remanded back to the trial court with the direction to re-consider framing of charges in accordance with law and to pass an



appropriate order regarding framing of charges by giving minimum reasons.

9. The petitioners shall be at liberty to take all the pleas and contentions as mentioned in the present petition at the time of re-consideration of framing of charges by the trial court. The respondent no. 2 shall also be at liberty to assist the Public Prosecutor at the time of consideration of charges by the trial court. It is also desirable that the trial court shall consider the framing of charges in accordance with law as early as possible and without any delay.

10. The petitioners are directed to appear before the concerned trial court on 07.08.2023 at 2:30 PM for further directions.

11. The present petition along with pending applications, if any, stands disposed of.

12. Copy of this order be sent to the trial court for information and compliance.

(DR. SUDHIR KUMAR JAIN)
JUDGE

JULY 27, 2023
N/SM