

**CRR-1058-2024 (O&M)****-1-****106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-1058-2024 (O&M)****Date of decision: 27.05.2024****Abdul Hafiz @ Abdul****....Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Jaspreet Saini, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed for setting aside the order dated 16.03.2024 passed by the learned Additional Sessions Judge-1, Faridabad vide which, application for discharge of the petitioner was dismissed and he was charged with offences under Sections 450, 376(2)(n), 323 of the IPC, Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter 'SC/ST Act') and Sections 67/67-A of the Information Technology Act, 2000 (hereinafter 'I.T. Act') in FIR NO. 84 dated 31.05.2023 registered under Sections 67, 67-A of the I.T. Act and Sections 450, 376(2)(n), 323 of the IPC at Police Station Women, NIT, Faridabad.

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2. Learned counsel for the petitioner *inter alia* contends that the perusal of the FIR clearly indicates that no offence under the provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is made out as the petitioner was not even aware of the caste of the complainant. It is further contended that the petitioner and the complainant were co-workers, therefore, they developed intimacy with each other and the relationship between them is purely consensual and the allegations of rape occurred over the course of year, are false and frivolous. The complainant kept mum for so long and made no complaint which proves it was a consensual relationship. The final report has been filed without collecting any material to indicate the complicity of the petitioner and only call details have been attached and the Instagram ID, I.P. address was obtained and the entire investigation in this regard was made without associating the petitioner or any independent witness in the inquiry. The petitioner has taken recourse to Section 91 of Cr.P.C. and the complainant denied to produce any obscene material. She merely stated that she had already submitted the screen shot of the obscene material to the police. Moreover, such material is not recovered from the mobile phone of the petitioner. He further has placed reliance on the judgment of the Hon'ble Supreme Court passed in ***Shashikant Sharma and others Vs. State of U.P. and others*** Criminal Appeal No. 3663 of 2023 arising out of SLP (Criminal) No.5323 of 2023.

3. I have heard learned counsel for the petitioner and perused the record with his able assistance.

4. The law on the issue with regard to the nature and degree of evaluation of the evidence presented by the investigating agency before the trial

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Court at the time of framing of charge is well settled. The trial Court at this stage is only to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the offence alleged. At the stage of formation of opinion under Sections 227, 239 and 240 of Cr.P.C, the trial Court is not required to weigh the probative value of the material brought on record in the golden scale or to presume the prosecution story as gospel truth.

5. The nature and degree of evaluation at this stage is limited to determine whether a prima facie case exists depending upon the facts of each case and as such, there is no requirement to go deep into the probative value of material on record. The trial Court is only required to evaluate whether there is a ground for presuming that the accused has committed the offence. The adequacy and sufficiency of the evidence is not to be considered at this stage. The veracity of the evidence can only be evaluated during the trial. In view of the legal literature and judgmental law on this issue, it could be safely concluded that at the stage of forming an opinion under Section 227, 239 and 240 of Cr.P.C, the learned trial Court is required to evaluate the material only with a purpose to ascertain whether the facts emerging from the record if taken at their face value disclose the existence of all the ingredients constituting the offence. The discharge of the accused is only permissible when the case set up by the investigating agency in the final report filed before the trial Court under 173 of Cr.P.C. has no basis or foundation. The trial Court cannot consider the probable defence of the accused in the case at this stage. Reliance in this regard can be placed upon the judgments rendered by the Hon'ble Supreme Court in ***P. Vijayan vs. State of Kerala (2010) SCC 398*** and ***State through Deputy***



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as well as this Court in ***Narinder Sharma vs. State of Punjab*** in CRM-M-57578-2023 decided on 21.11.2023.

6. In view of the discussion above, this Court finds no reason to interfere with the impugned order. Accordingly, the present petition is dismissed.

7. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

27.05.2024*Neha*

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

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