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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1276-2024 (O&M)
Date of decision: 09.07.2024

Ajay @ Raja

... Petitioner

Vs.

State of Haryana

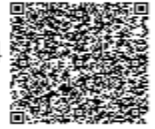
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Randeep Singh Rai, Sr. Advocate with
Mr. Puneet Bali, Advocate,
Ms. Mehtab Kamboj, Advocate
for the petitioner.

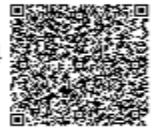
HARPREET SINGH BRAR, J. (ORAL)

1. Present revision petition has been preferred against the impugned order dated 08.05.2024 passed by learned Additional Sessions Judge, POCSO Court, Rohtak, vide which charges under Sections 323/34, 342/34, 376(2)(n), 498-A/34, 506/34, 376(3), 201, 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Sections 6, 9 & 11 of the Children Marriage Prohibition Act, 2006 (for short 'CMP Act') have been framed against the petitioner, in FIR No.10 dated 09.02.2022 under Sections 323, 342, 376(2)(n), 498-A, 201, 506 read with Sections 34, 120-B of IPC, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 10 of PCM Act, registered at



Police Station Women, Rohtak.

2. Learned senior counsel for the petitioner, *inter alia*, contends that the petitioner got married to the prosecutrix on 24.05.2021 as per Hindu rites and rituals. Thereafter, when the petitioner found that the prosecutrix was having illicit relationship with one Harsh @ Akshay, he made a complaint on 23.12.2021, which culminated into FIR No.56 dated 09.02.2022 under Sections 120-B, 323, 328, 380, 506 of IPC, registered at Police Station Matlauda, District Panipat. It is further contended that as a counter-blast to aforementioned FIR No.56, father-in-law of the petitioner made a complaint on 03.01.2022 by levelling allegations, which are too far-fetched and implausible. It is alleged in this FIR that Harsh @ Akshay was having a relationship with the prosecutrix on the asking of mother of the petitioner. Even in her statement recorded under Section 164 Cr.P.C. before the jurisdictional Magistrate, she has stated that co-accused Harsh @ Akshay had a physical relationship with her and that her mother-in-law facilitated the same. When confronted by the petitioner, she disclosed the details of her relationship with Harsh @ Akshay causing the petitioner to slap her. The allegations contained in the FIR (*supra*) are too far fetched for a prudent man to believe them. Also, two different FIR have been registered with regard to same incident. In fact, the prosecutrix used to administer sleeping pills to the petitioner and taking advantage of the same, had sexual intercourse with co-accused Harsh @ Akshay. It is in fact the petitioner who is the victim who has been falsely implicated in the present case

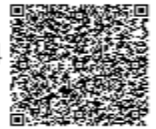


when he caught the prosecutrix and Harsh @ Akshay in a compromising position. The learned trial Court has framed charges by ignoring all the abovementioned facts and circumstances and a perusal of the FIR(supra) would indicate that the offences alleged in the same are not made out against the petitioner.

3. Having heard learned senior counsel for the petitioner and after perusing the record of the case with his able assistance, this Court finds no merit in the present petition.

4. The law on the issue with regard to the nature and degree of evaluation of the evidence presented by the investigating agency before learned trial Court at the time of framing of charge is well settled. Learned 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 Cr.P.C., learned 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. The Hon'ble Supreme Court has in extension laid down the principles for the purpose of framing of charges in *P. Vijayan Vs. State of Kerala, (2010) 2 SCC 398*.

5. A two Judge Bench of the Hon'ble Supreme Court in *Union of India Vs. Prafulla K Samal, (1979) 3 SCC 4* speaking through Justice S.M. Fazal Ali, has held as under:-



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

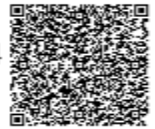
(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out:

(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 Judge cannot act merely as a Post Office or a mouth-piece of the prosecution, 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.”

Reliance in this regard can also be placed on the judgments rendered by the Hon’ble Supreme Court in ***Vishnu Kumar Shukla and another Vs. The State of Uttar Pradesh and another***, in ***Criminal Appeal No.3618 of 2023*** decided on 28.11.2023 and ***Shashikant Sharma and others Vs. State of Uttar Pradesh and another*** in ***Criminal Appeal***, arising out of



SLP (Criminal) No.5323 of 2023, decided on 01.12.2023 and this Court in Krishan @ Tiwari Vs. State of Haryana 2024(1) PLR 406.

6. In view of the settled law, this Court finds no illegality or perversity in the impugned order dated 08.05.2024 whereby charges have been framed against the petitioner. Accordingly, present petition is dismissed.

7. However, the petitioner would be at liberty to raise all the pleas taken in the present petition at the appropriate stage during course of the trial.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall decide the case on its own merits without being prejudiced by observations of this Court.

**[HARPREET SINGH BRAR]
JUDGE**

09.07.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No