



2024:DHC:8429



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Decision: 14th August, 2024*
+ **CRL.REV.P. 119/2023**

**STATE (NCT OF DELHI) THROUGH DEPUTY
COMMISSIONER OF POLICE**

.....Petitioner

Through: **Mr. Ajay Vikram Singh,**
APP for the State.

Inspector Naveen Kumar
(P.S. Samaypur Badli).

versus

SACHIN JAIN

.....Respondent

Through: **Mr. S.C. Malhotra & Mr.**
Kunal Kishore, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petition is filed challenging the order dated 30.05.2022 passed by the learned Additional Sessions Judge-02 ('ASJ') (North), Rohini Courts, in SC No. 610/2021 in FIR No. 306/2020, dated 20.04.2020, registered at police station Samaypur Badli, for offences under Section 326(A) of Indian Penal Code, 1860 (hereafter '**the impugned order**').

2. The learned ASJ, by the impugned order, has framed charges under Section 302/326A of the Indian Penal Code, 1860 ('**IPC**') against the accused – Dilip, and discharged the respondent of offence under Section 285 of the IPC.

3. The FIR was registered pursuant to the information

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CRL.REV.P. 119/2023

Page 1 of 6



2024:DHC:8429



received on 19.04.2020 that injury had been caused to two persons. On inquiry, it was found that the injured, namely, Devki Nandan and his wife – Asha were taken to the hospital. The statement of the injured – Asha was recorded wherein she stated that on 19.04.2020, her son-in-law/Dilip (accused) came to her house in a drunk condition and quarrelled with her and her husband. Thereafter, she went after her son-in-law, who then entered a factory and brought acid and threw it on her and her husband which led to injuries. The FIR was, thereafter, registered under Section 326A of the IPC. During the course of the treatment, Devki Nandan succumbed to injuries and Section 302 of the IPC was added.

4. During the course of the investigation, it was found that the godown from where the acid was procured by the accused – Dilip, was owned by the respondent.

5. In the chargesheet, it is alleged that the respondent had kept the chemical in his factory without permission and without security and was sought to be charged under Section 285 of the IPC.

6. The learned ASJ noted that from the investigation carried out by the prosecution, no offence under Section 285 of the IPC was made out against the respondent. Section 285 of the IPC reads as under: -

“Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either

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CRL.REV.P. 119/2023

Page 2 of 6



description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

7. The prosecution has sought to charge the respondent for being negligible since the main accused entered the premises of the respondent to get the acid which was thrown on the victims which further led to the death of one of the victims.

8. It is submitted by learned Additional Public Prosecutor for the State that the learned Trial Court has failed to appreciate that the acid was procured from the factory of the respondent and in terms of Section 285 of IPC, it was his responsibility to keep the combustible substance in a well-guarded manner.

9. Before delving into the facts of the present case, it is important to note that it is a settled law that the scope of interference by High Courts while exercising revisional jurisdiction is limited and ought to be exercised sparingly, in the interest of justice. The Hon'ble Apex Court, advertent to a catena of precedents, has considered and explained the scope of Section 397 of CrPC and noted that the test for quashing of charge in the exercise of revisional jurisdiction is whether the allegations, as made from the record of the case, taken at their highest, constitute the offence or not. [Ref. ***Amit Kapoor v. Ramesh Chander* : (2012) 9 SCC 460**].

10. It is trite law that the trial court, at the stage of framing of charges, is not required to conduct a mini trial and has to merely weigh the material on record to ascertain whether the ingredients constituting the alleged offence are *prima facie* made out against the accused persons. The Hon'ble Apex Court, in the case of ***Sajjan Kumar v. CBI* : (2010) 9 SCC 368**, has culled out the



following principles in regards to the scope of Sections 227 and 228 of the CrPC:

"21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC 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. The test to determine prima facie case would depend upon the facts of each case.

(ii) 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.

(iii) The court cannot act merely as a post office or a mouthpiece 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, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.



2024:DHC:8429



(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(emphasis supplied)

11. It is also clear that this Court, while exercising revisional jurisdiction, is not required to reevaluate the evidence or hold a mini trial as the same would tantamount to this Court assuming appellate jurisdiction. Thus, all that has to be seen is whether the learned Trial Court has adequately appreciated the material on record and whether on the material placed before it, the Court could form an opinion that there is *grave suspicion* against the accused.

12. It is undisputed that at the time of the alleged incident, the entire country was in a lockdown state.

13. Even if it is to be presumed that the acid was stored in the premises of the respondent, the prosecution has not alleged as to in what manner the conduct of the respondent was negligent to guard the acid against any probable danger. The respondent was admittedly not present at the factory premises when the acid was taken out by the accused – Dilip.

14. It is not the case of the prosecution that the acid was not required to be kept in the factory for being used for the manufacturing purposes.

15. It is also not alleged by the prosecution that the factory premises were left open by the respondent in a negligent manner so as to enable anyone to enter the same and misuse the combustible substance lying in the premises.



2024:DHC:8429



16. From the investigation carried out, it has not been shown, as to how the main accused had access to the premises. No guidelines have also been produced or taken note of in the chargesheet to allege that the combustible substance was required to be kept in a particular manner and by not following the same, the use of the substance would amount to negligence punishable under Section 285 of the IPC.

17. No investigation has also been done to show that the acid was in fact purchased by the respondent at any stage and was kept by him in his godown. The country was admittedly in a lockdown state at the time of the alleged incident and without any investigation and the material, the implication that the combustible substance was in fact possessed by the respondent and was not sufficiently guarded against any probable danger is without any basis.

18. With the facts as alleged by the prosecution, the same do not give rise to grave suspicion that the respondent was negligent in keeping in possession of the combustible substance which was thereafter used in the alleged offence.

19. Considering the aforementioned facts, no ground is made out to warrant any interference in the impugned order.

20. The present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

AUGUST 14, 2024

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CRL.REV.P. 119/2023

Page 6 of 6