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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 202/2022 & CRL.M.A. 6454/2022**
SUBODH CHAND DIXIT & ORS. Petitioners
Through: **Mr.Sidharth Joshi, Mr.Vikrant**
B. Sharan, Mr.Atul Trivedi,
Advs.

versus

STATE Respondent
Through: **Mr.Aman Usman, APP with**
Insp. Vikas Malik, Insp.
Ramesh Prasad.
Mr.Nasimuddin, Adv. for the
complainant along with the
complainant in person.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

% **ORDER**
16.04.2024

1. This petition has been filed under Section 397 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), challenging the order dated 23.02.2022 passed by the learned Additional Sessions Judge-02, Shahdara District, Karkardooma Courts in SC no.238/2021, directing framing of charges against the petitioners under Sections 498A/304B of the Indian Penal Code, 1860 (in short, 'IPC') and in the alternative, under Sections 302/34 of the IPC.
2. It is the case of the prosecution that the marriage between the petitioner no.3 and the deceased was solemnized on 11.05.2018.



The deceased died of hanging on 11.05.2020, for which FIR No. 112/2020 was registered at Police Station: Mansarovar Park, Shahdara, Delhi for offence under Sections 498A/304B/306/34 of the IPC. On completion of investigation, charge-sheet was filed, originally against petitioner no.3, in October, 2020, for offence under Sections 498A/304B/306/34 of the IPC. Thereafter, a supplementary charge-sheet came to be filed in February, 2021 against the petitioner nos. 1 and 2, also under Sections 498A/304B/306/34 of the IPC.

3. The learned counsel for the petitioners submits that the learned ASJ has, however, without giving any reasons, by way of the Impugned Order, directed framing of charges for offence under Sections 498A/304B of the IPC and in the alternative, under Sections 302/34 of the IPC. He submits that the Impugned Order is, therefore, liable to be set aside.
4. The learned APP fairly concedes to the above lacuna of the Impugned Order being unreasoned. The learned counsel for the complainant is also not in a position to dispute the same.
5. I have considered the submissions made by the learned counsels for the parties.
6. The learned ASJ, after discussing the law that is applicable at the stage of framing of charges, merely records as under:

“There is ample material on record sufficient enough to charge all accused of having committed offences alleged from statement of complainant and witnesses, the details of which are mentioned in chargesheet. I am of the view that prima facie a case for the offence



punishable under section 498-A/304-B IPC in alternative, Section 302/34 IPC is made out against all accused. Accordingly, charges be framed separately.”

7. It is now well settled that though the detailed reasons are not to be given at the stage of framing of charges, the order must at least reflect application of judicial mind. The same can be reflected only where at least some reasons are recorded in the order. In ***Ghulam Hassan Beigh v. Mohammad Maqbool Magrey & Ors.***, 2022 SCC OnLine SC 913, the Supreme Court reiterated this principle, observing as under:-

“27. Thus from the aforesaid, it is evident that the trial court is enjoined with the duty to apply its mind at the time of framing of charge and should not act as a mere post office. The endorsement on the charge-sheet presented by the police as it is without applying its mind and without recording brief reasons in support of its opinion is not countenanced by law. However, the material which is required to be evaluated by the court at the time of framing charge should be the material which is produced and relied upon by the prosecution. The sifting of such material is not to be so meticulous as would render the exercise a mini trial to find out the guilt or otherwise of the accused. All that is required at this stage is that the court must be satisfied that the evidence collected by the prosecution is sufficient to presume that the accused has committed an offence. Even a strong suspicion would suffice. Undoubtedly, apart from the material that is placed before the court by the prosecution in the shape of final report in terms of Section 173CrPC, the court may also rely upon any other evidence or material which is of sterling quality and has direct bearing on the charge laid before it by the



prosecution. [See : *Bhawna Bai v. Ghanshyam*, (2020) 2 SCC 217].”

(Emphasis supplied)

8. In *State of Gujarat v. Dilipsinh Kishorsinh Rao*, 2023 SCC OnLine SC 1294, the Supreme Court emphasized on the Trial Court applying its “judicial mind” at the stage of framing of charges, by observing as under

“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

8. At the time of framing of the charge and taking cognizance the accused has no right to produce any material and call upon the court to examine the same. No provision in the Code grants any right to the accused to file any material or document at the stage of framing



of charge. The trial court has to apply its judicial mind to the facts of the case as may be necessary to determine whether a case has been made out by the prosecution for trial on the basis of charge-sheet material only.”

(Emphasis supplied)

9. Application of judicial mind can only be manifested by giving some reasons for the order. This court should not be misunderstood as laying down that detailed reasons are to be given for framing of charges. This court is only emphasizing that the order directing framing of charges should show the application of judicial mind by the learned Trial Court and that the same can be manifested when at least some bare reasons are given.
10. In the present case, as is discussed herein above, the FIR and the Charge Sheet had alleged commission of offence under Sections 498A/304B/306/34 of the IPC against the accused/petitioners. The learned Trial Court, however, by the Impugned Order, directed framing of charge under Sections 302/34 of the IPC in the alternative. While the learned Trial Court has the power to frame such charge in the alternative, the learned Trial Court has to give some reasons for the same. The Impugned Order, however, does not meet the above parameters.
11. Accordingly, the impugned order is set aside, and the matter is remanded back to the learned Trial Court for considering the framing of charges against the petitioners afresh, remaining uninfluenced by any observations made in the Impugned Order



or by this Court.

12. The petition is allowed in the above terms. The pending application also stands disposed of.

NAVIN CHAWLA, J

APRIL 16, 2024
RN/RP

Click here to check corrigendum, if any