



2024:DHC:2725



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 01.04.2024***

+ CRL.M.C. 1543/2022 & CRL.M.A. 6665/2022

AJIT SINGH CHAUHAN

..... Petitioner

Through: Mr.Tarun Sharma, Mr.Abid Ali
& Mr.Manek Sharma, Advs.

versus

STATE THR. GOVT. OF NCT OF DELHI Respondent

Through: Mr.Satinder Singh Bawa, APP
SI Sachin Kumar, PS Alipur.
Mr.Jagat Rana, Adv. for R-2.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the Order dated 16.03.2022 passed by the learned Additional District and Sessions Judge-04, North District, Rohini Courts, Delhi (hereinafter referred to as the 'ASJ') in Criminal Revision No. 107/2021, titled *Ajit Singh Chauhan v. Government of NCT of Delhi*, dismissing the said Revision Petition.

2. The petitioner, by way of the above Revision Petition had challenged the Order dated 11.10.2021 passed by the learned Metropolitan Magistrate (Mahila Court-01), North District, Rohini Courts, Delhi (hereinafter referred to as the learned 'Trial Court') in the criminal case arising out of FIR 239/2017



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registered at Police Station: Alipur, Rohini District, Delhi, framing charges under Sections 498A/406/323/509/34 of the Indian Penal Code, 1860 (in short, 'IPC') against the petitioner herein.

3. The learned counsel for the petitioner, in the course of his submissions, confines the challenge in the present petition only to the charges framed under Sections 323/509/34 IPC.

4. The above FIR was registered *inter alia* on an allegation that on 06.12.2015 at about 4:00 PM, the complainant along with her father had gone to her matrimonial home. It is alleged that the moment they entered the matrimonial home, the complainant's father-in-law, that is, the petitioner herein, abused the complainant and her father in the '*dirtiest language*' and threatened to get them killed if they ever approached them. It is alleged that the petitioner then prompted the complainant's sister-in-law to beat her and throw her out of the house. In the FIR it is stated that the complainant was then beaten by her sister-in-law and by the petitioner. The complainant states that on her way back she got herself medically examined for the injuries resulting from the beatings given '*by my sister-in-law Anjali alias Sweety*'. Based on the said allegations, the charges also under Sections 323/509/34 of the IPC have been framed against the petitioner herein.

5. The learned counsel for the petitioner has submitted that prior to the filing of the complaint, on the basis of which the FIR was registered, the complainant had filed a complaint with



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the SHO, Police Station: Sahibabad, Ghaziabad, Uttar Pradesh, wherein, she had *inter alia* described the same incident of 06.12.2015, as under:-

“On 06/12/2015, I had gone to my matrimonial home with my father and at about 04:00 PM when I entered my matrimonial home, my father-in-law and mother-in-law abused me in most filthy language and prompted my sister-in-law Sweety alias Anjali to beat me and I was beaten up by my sister-in-law Anjali. They threw me out of my matrimonial home.

On my way back home, I got myself medically examined for the injuries resulting from beatings given by my sister-in law. Copy of the MLC bearing no. B5636/15 dated 06/12/2015 issued by GTB Hospital, Dilshad Garden is attached herewith.”

(Emphasis Supplied)

6. He submits that even in her statement recorded under Section 161 Cr.P.C., though she tried to implicate her husband in the alleged beating, she did not name the petitioner as the person who had given her any beating.

7. He submits that, therefore, clearly the allegations of beating were against the sister-in-law Anjali alias Sweety, and not against the petitioner herein. He submits that Anjali alias Sweety has already been discharged of the said offence by the learned ASJ by way of the Impugned Order itself. He submits that the said Order has not been challenged either by the State or by the complainant.

8. As far as the charge under Section 509 IPC is concerned, he submits that barring a vague allegation of the petitioner



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having abused the complainant, there are no specific details of the same given in the FIR or even in the chargesheet. He submits that a vague charge, therefore, cannot be framed against the petitioner.

9. On the other hand, the learned APP and the learned counsel for the complainant submit that the petitioner has been specifically named for the incident of 06.12.20215. They submit that the allegations are also supported by the MLC of 07.12.2015, which was conducted at the GTB Hospital, Shahdara, Delhi and shows the injuries suffered by the complainant. They further submit that, in any case, the contradiction pointed out by the learned counsel for the petitioner would be a matter of trial and cannot be a ground to discharge the petitioner at this present stage. The learned APP also points out that a charge under Section 506 Part-II IPC needs to be framed against the petitioner based on the allegations made in the complaint.

10. I have considered the submissions made by the learned counsels for the parties.

11. As is evident from the above, post the incident, the first complaint was made by the complainant to the SHO, Police Station: Sahibabad, Ghaziabad, Uttar Pradesh, wherein she named only her sister-in-law Anjali alias Sweety as the person who had given her beatings on the day of the alleged incident, that is, 06.12.2015. It is only in the second complaint, which was filed on 14.06.2016, that is, more than six months after the



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date of the incident, that the complainant for the first time named the petitioner along with Anjali as the persons who had given her the beating. In the later part of the said complaint/FIR itself, she, however, again attributes the beatings only to Anjali. Even at the time of the MLC, she gives the history of being beaten by Anjali alone. Thereafter, in her statement under Section 161 Cr.P.C., she named only the sister-in-law, however, this time added her husband Anirudh Chauhan as also the person who had given her beatings. This statement was recorded on 15.07.2017. Anjali alias Sweety has since been discharged by the Order passed by the learned ASJ. The said order has since gained finality and has not been challenged by the complainant or the State.

12. In my view, mere self-serving statements of the complainant cannot be a sufficient reason to proceed against the petitioner, especially in light of these contradictory stands/statements of the complainant herself.

13. As far as the charge under Section 509 IPC is concerned, again, it is based only on a vague and generalized allegation of the petitioner having abused the complainant when she came back to her matrimonial house along with her father. A charge cannot be framed on such a vague and generalized allegation.

14. This Court, in ***Hari Kishen Sharma v. State & Anr.*** 2018 SCC OnLine Del 11456, has held as under:

“15. The allegations made by the prosecutrix of the offence under Section 506, 509 are as vague as they can be. Prosecutrix



has not stated as to what were the words uttered or gestures, actions or threat extended which would satisfy the requirement of Section 506 and 509 IPC.

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17. The Supreme Court in Dilawar Balu Kurane v. State of Maharashtra, (2002) 2 SCC 135 has held as under:

“12. Now the next question is whether a prima facie case has been made out against the appellant. In exercising powers under Section 227 of the Code of Criminal Procedure, the settled position of law is that the Judge while considering the question of framing the charges under the said section 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; 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; by and large 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 justified to discharge the accused, and in exercising jurisdiction under Section 227 of the Code of Criminal Procedure, the Judge 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 but should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial (see Union of India v. Prafulla Kumar Samal [(1979) 3 SCC 4 : 1979 SCC (Cri) 609]).”



18. For accused to face trial for an offence there has to be grave suspicion and not mere suspicion or an allegation. In the present case apart from bald allegations, evidence does not reveal grave suspicion of the petitioner having committed the offence under Section 506 or 509 IPC.

19. Supreme Court in Inder Mohan Goswami (supra) has laid down that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution and Courts cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak, no useful purpose is likely to be served by allowing a criminal prosecution to continue. Where the allegations in the first information report or complaint even if they are taken at their face value and accepted in their entirety do not prima facie constitute the offence alleged or make out a case against the accused or where the criminal proceedings are manifestly attended with mala fide or where the proceedings are maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the proceedings are liable to be quashed."

15. As far as the submission of the learned APP that a charge under Section 506 Part-II of the IPC needs to be framed against the petitioner, this may be a matter to be decided by the learned Trial Court. I need not express any opinion on this at this stage.

16. Accordingly, the petition is partly allowed to this extent. The Order dated 11.10.2021 passed by the learned Trial Court and the Order dated 16.03.2022 passed by the learned ASJ, only insofar as they direct framing of charges under Sections



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323/509/34 IPC against the petitioner, are hereby set aside.

17. There shall be no order as to costs.

NAVIN CHAWLA, J

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Click here to check corrigendum, if any