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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 388/2024**

MANJEET @ MANJAY

..... Petitioner

Through: Mr. Bhavesh Kr. Sharma and
Ms. Gudiya Sharma, Advocates.

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
the State with SI Jasbir Malik, PS: Kapashera.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

19.03.2024

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CRL.M.A. 8761/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This is a criminal revision petition filed on behalf of the Petitioner under Sections 397/398/401 Cr.P.C. seeking setting aside of the impugned order dated 16.12.2023 passed by learned Additional Sessions Judge-05, South West District, Dwarka Courts, New Delhi in FIR No.204/2019 registered under Sections 364A/120B/34 IPC at PS: Kapashera, whereby charge has been framed against the Petitioner for offences punishable under Sections 364/120B IPC.
4. Learned counsel for the Petitioner assails the impugned order dated 16.12.2023 on two-fold grounds. First and foremost, it is urged that the



impugned order is wholly non-speaking and does not disclose the reason that weighed with the Trial Court to frame the charges against the Petitioner. There is no connection of the Petitioner with the other Accused persons, save and except, two calls, one on 06.04.2019 for a duration of 21 and 44 seconds and the second one on 03.04.2019 for 53 seconds. There is no recovery from the Petitioner either of money or the alleged weapon of offence. Petitioner was not arrested from the spot and is not visible in the CCTV footage and no co-accused has disclosed the involvement of the Petitioner in the alleged crime. Petitioner was not identified by the Complainant or the Victim and there was no material before the Court to frame the charges. Secondly, it is argued that the impugned order is wholly non-speaking and does not disclose the reasons that weighed with the Trial Court to frame the charges against the Petitioner. While it is a settled law that at the time of framing of charge, detailed reasons are not required to be given by the Court, however, the order must indicate what facts and circumstances and/or material on record led the Trial Court to take even a *prima facie* view. Learned counsel fairly states that he is not in a position to make a statement whether the recording by the Trial Court that Petitioner had conceded to the charge is factually correct or incorrect, however, considering that the impugned order is non-speaking, opportunity be given to the Petitioner to address arguments on charge before the Trial Court. It is asserted that another fallacy in the impugned order is that while the entire case against the Petitioner is premised on alleged conversations between the co-accused and him, even the CDRs were not before the Trial Court at the time the impugned order was passed.

5. Issue notice.



6. Learned APP accepts notice and fairly concedes to the argument that the impugned order is cryptic and non-speaking and discloses no reason at all for framing the charges against the Petitioner. He, however, refutes that the Petitioner is innocent and there is no material on record to frame the charges.

7. Having heard learned counsel for the parties and having perused the impugned order, this Court is in agreement with the counsel for the Petitioner that the impugned order is non-speaking and cryptic. It is no longer *res integra* that at the stage of framing of charges under Sections 227/228 Cr.P.C., Court is required to consider whether there is sufficient material on record to frame the charges. While doing so, Court has the power to sift and weigh the evidence for limited purpose of finding out whether or not a *prima facie* case is made out against the accused. The test to determine *prima facie* case will differ from case to case. If the material placed before the Court discloses grave suspicion against the accused, the Court will be justified in framing charges and proceeding with the trial. No roving inquiry can be done into the pros and cons of the matter and the evidence is not to be weighed as if a trial is being conducted. Court is not to consider whether there is sufficient ground for conviction of the accused or the trial is sure to end in conviction. These are the observations of the Supreme Court in the judgment in the case of *State (NCT of Delhi) v. Shiv Charan Bansal and Others*, (2020) 2 SCC 290 and relevant passages are as follows:-

“I. Scope of Sections 227 and 228 CrPC

39. *The court while considering the question of framing charges under Section 227 CrPC has the power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case has been*



made out against the accused. The test to determine prima facie case would depend upon the facts of each case. If the material placed before the court discloses grave suspicion against the accused, which has not been properly explained, the court will be fully justified in framing charges and proceeding with the trial. The probative value of the evidence brought on record cannot be gone into at the stage of framing charges. 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 ingredients constituting the alleged offence. At this stage, there cannot be a roving enquiry into the pros and cons of the matter, the evidence is not to be weighed as if a trial is being conducted. Reliance is placed on the judgment of this Court in State of Bihar v. Ramesh Singh, (1977) 4 SCC 39 : 1977 SCC (Cri) 533 where it has been held that at the stage of framing charges under Sections 227 or 228 CrPC, if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused had committed the offence, then the court should proceed with the trial.

40. *In a recent judgment delivered in Dipakbhai Jagdishchandra Patel v. State of Gujarat, (2019) 16 SCC 547 decided on 24-4-2019, this Court has laid down the law relating to framing of charges and discharge, and held that all that is required is that the court must be satisfied with the material available, that a case is made out for the accused to stand trial. A strong suspicion is sufficient for framing charges, which must be founded on some material. The material must be such which can be translated into evidence at the stage of trial. The veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged at this stage, nor is any weight to be attached to the probable defence of the accused at the stage of framing charges. The court is not to consider whether there is sufficient ground for conviction of the accused, or whether the trial is sure to end in the conviction.”*

8. From a conjoint reading of the two passages from the judgment of the Supreme Court, it is clear that while the Court is not to go into the probative value of the evidence brought on record at the stage of framing of charges, as if it is determining whether there is sufficient ground for conviction, but at the same time the Court is required to evaluate the material and documents on record to arrive at a *prima facie* view that the facts emerging from the material on record, taken at their face value, disclose the ingredients constituting the alleged offence. The suspicion must be ‘grave



suspicion' founded on the material on record. It needs no reiteration that framing of charges is an important step and stage in a trial. Depending on the material on record and the arguments addressed by the State and the accused, Court decides the charges to be framed, if any, and thus further course of the trial is determined and chartered. Therefore, it is imperative that the order by which the Trial Court frames the charge(s) must indicate what material was sufficient at that stage to arrive at a finding, *albeit prima facie*, of strong suspicion that the accused has committed the offence.

9. The impugned order in the present case is non-speaking and unreasoned and apart from simply recording that there is sufficient material on record to frame charges, there is no reasoning which even remotely points to the material on record, which in the Court's view was sufficient to arrive at a conclusion *albeit prima facie* that there was strong suspicion that Petitioner committed the offences alleged and/or the ingredients of the offences alleged to be committed were made out, to put the Petitioner to trial. Learned APP is right in his contention that while framing charges, Court is not required to deliver lengthy judgments or give detailed reasons, nonetheless, there must be some reason discernible from the order justifying the conclusion that the accused be put to trial. It is settled law that reasons form the heart and soul of an order and it is only when reason is recorded in the order by the Court that the higher Court is in a position to examine the correctness of the order and a litigant is in a position to know what weighed with the Court to deliver a decision against or in his favour. The Supreme Court has repeatedly held that while framing charges, Court has the power to sift and weigh the evidence to find out if a *prima facie* case exists and that the Court must be satisfied with the material available that there is strong



suspicion against the accused to put him to trial. This exercise cannot be in a vacuum and the reasons forming the basis of the decision must find their place in the order framing the charge. Impugned order does not indicate any basis for the satisfaction arrived at by the Trial Court and fails to pass muster. Therefore, without adverting to the merits of the case, the impugned order is set aside on the limited ground that it is non-speaking and devoid of any reason as to what material weighed with the Court to come to a conclusion that charges were made out against the Petitioner.

10. Court is apprised that the next date of hearing before the learned Trial Court is 27.03.2024. Accordingly, Trial Court is directed to re-hear the arguments on charge and pass a fresh order, uninfluenced by the earlier order passed by the Trial Court and/or this order.

11. It is made clear that this Court has not expressed any opinion on the merits of the case and it is open to the Trial Court, after hearing the parties and giving them opportunity to address arguments, to pass an appropriate order, in accordance with law and based on the material on record as well as the facts and circumstances of the case.

12. Revision petition is allowed and disposed of.

JYOTI SINGH, J

MARCH 19, 2024/shivam