



2024:DHC:9696



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 16.12.2024

+ **CRL.M.C. 3857/2019 & CRL.M.A. 32873/2019**

SMT. RITU AGGARWAL @ ADITI & ORS.Petitioners

versus

STATE & ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Rajesh Aggarwal, Adv.

For the Respondents : Mr. Naresh Kumar Chahar, APP for the State with Mr. Amrendra Choudhary, Mr. Achint Kumar & Mr. Amit Kumar, Advs. SI Shivendra Singh, PS- Subhash Place Counsel for R-2 (Appearance not given)

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition has been filed, *inter alia*, challenging orders dated 30.03.2019 and 25.05.2019 (hereafter '**impugned orders**'), passed by the learned Special Judge, North West District, Rohini Courts, Delhi, in CR No. 50/2018.

2. The learned Revisional Court by impugned order dated 30.03.2019, dismissed the challenge of the petitioners to the order



dated 24.01.2018, passed by the learned Trial Court, and held that the contention raised on behalf of the petitioners that they deserve to be discharged as the charge sheet was filed after period of limitation was meritless.

3. By the impugned order dated 25.05.2019, the learned Revisional Court noted that the learned Trial Court had rightly framed charges against the accused persons for the offences under Sections 451/341/323/506(II)/34 of the Indian Penal Code, 1860 ('IPC').

4. The brief facts of the case are as follows:

4.1. Respondent No.2 filed an application under Section 156(3) of the Code of Criminal Procedure, 1973 ('CrPC') along with a criminal complaint under Section 200 of the CrPC against the petitioners. It is alleged that Petitioner No.1 and the complainant were married, however, she had left the matrimonial home on the pretext of attending a family function. It is alleged that on 05.06.2006, at around 8 PM, the accused petitioners forcefully gained entry into the house of the complainant in the absence of the complainant. It is alleged that the accused persons abused and humiliated the parents of the complainant and threatened the complainant's mother that he would be kidnapped if they didn't obey the accused persons. Petitioner No.2 (mother of Petitioner No.1) further threatened the parents of the complainant that they would have been killed if they had been in Batala, PB. When the complainant rushed to his home on finding out about the incident, he was manhandled along with his parents by the accused persons. The accused persons ransacked the complainant's house and also took the jewellery and cash of the complainant's



mother. When the complainant objected to this, he was dragged by the accused persons on road and beaten, due to which he sustained severe injuries. The complainant lost consciousness. The mother of the complainant tried to intervene and she was pushed away due to which she also sustained minor injuries. The same culminated into FIR No. 980/2006 dated 10.09.2006, registered at Police Station Saraswati Vihar, for offences under Sections 323/325/34/341/452/506 of the IPC.

4.2. The charge sheet was filed against the accused persons in the year 2009. The learned Trial Court took cognizance for offences under Sections 323/506/34 on 07.05.2011.

4.3. The petitioners raised the issue of limitation under Section 468 of the CrPC in filing of charge sheet, however, the learned Trial Court dismissed the application for discharge on the ground of limitation by order dated 10.10.2017. The petitioners challenged the said order before this Court in CRL.M.C. 5371/2017.

4.4. The learned Trial Court by order dated 24.01.2018 framed charges against the accused persons for offences under Sections 451/341/323/506(II)/34 of the IPC. The said order was challenged before the Revisional Court in CR No. 50/2018. This Court, by order dated 14.03.2019, in CRL.M.C. 5371/2017, dismissed the petition after observing that the issue of limitation had already been raised by the petitioners before the Revisional Court. The Court directed the Revisional Court to pass a speaking order on the plea of limitation as well.



4.5. By impugned order dated 30.03.2019, the learned Revisional Court rejected the plea of limitation. It was noted that the complaint was registered by Respondent No.2 soon after the incident and the complainant could not be blamed for delay on part of the investigating officer. It was noted that grave injustice would be caused to Respondent No.2 if the order taking cognizance is held to be bad in law on account of limitation.

4.6. By impugned order dated 25.05.2019, the learned Revisional Court upheld the order dated 24.01.2018 on merits. It was noted that each case is to be decided on its own merits and it cannot be held that that the petitioners had only given empty threats of causing dire harm. It was held that at that stage, the manner in which the accused persons had acted by breaking into the complainant's house, beating him and threatening his parents, was sufficient to frame charges under Sections 451/341/323/506(II)/34 of the IPC against them.

5. The learned counsel for the petitioners submitted that a bare perusal of the record indicates that the charge sheet has been filed against the petitioners after the limitation period of three years. He submitted that despite the delay in filing of chargesheet, the learned Courts below erroneously did not grant benefit of the same to the petitioners.

6. He submitted that the Courts below erroneously observed that there is no period of limitation to file the charge sheet. He further submitted that the plea of limitation was dismissed on the observation that the learned Trial Court had framed charges for graver offence of Section 506(II) of the IPC which has no period of limitation without



appreciating that the same is not attracted in the present case as there is no allegation that the threats caused any alarm to the complainant.

7. He submitted that mere outburst by the accused that he will kill the complainant is not sufficient to constitute the offence under Section 506(II) of the IPC.

8. He submitted that the question of limitation and framing of the graver charge of Section 506(II) of the IPC is interconnected and ought to have been adjudicated simultaneously. He submitted that the petitioners never conceded to disposal of matter in such a manner.

9. He submitted that no case under Section 451 of the IPC is made out as Petitioner No.1 had gone to her own matrimonial house with her mother and brother. He submitted that the other accused persons were not present at the spot and did not visit the matrimonial house of Petitioner No.1.

10. He submitted that no victim was wrongly restrained and Section 341 of the IPC has been attracted without due application of mind.

11. *Per contra*, the learned Additional Public Prosecutor for the State submits that the learned Revisional Court and the learned Trial Court have framed the charges after due application of mind to the facts of the case. He submitted that the FIR was filed within the period of limitation, and thus, the plea of limitation is not applicable to the present case.

ANALYSIS

12. At the outset, it is relevant to note that while it is settled law that a second revision cannot be filed in terms of the bar under Section 397 of the CrPC, the inherent power of this Court under Section 482 of the



CrPC has a wide ambit and can be exercised in the interest of justice. It is settled law that the power under Section 482 of the CrPC is to be exercised cautiously and sparingly, especially when Sessions Judge has already exercised revisional power under Section 397 of the CrPC.

13. The Hon'ble Apex Court, in the case of **Krishnan v. Krishnaveni : (1997) 4 SCC 241**, had observed as under:

“8. The object of Section 483 and the purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice. In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order.”

(emphasis supplied)

14. In the present petition, the petitioners have assailed the charges framed against them on the ground of limitation and also on merits.

15. Insofar as the issue of limitation is concerned, it is relevant to refer to Section 468 of the CrPC. The same reads as under:

“468. Bar to taking cognizance after lapse of the period of limitation.—(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;



(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.”

16. The issue of relevant date for the purpose of calculating period of limitation under Section 468 of the CrPC was considered by the Constitutional Bench of the Hon’ble Apex Court in the case of ***Sarah Mathew v. Institute of Cardio Vascular Diseases : (2014) 2 SCC 62*** has observed as under:

“3. No specific questions have been referred to us. But, in our opinion, the following questions arise for our consideration:

3.1. (i) Whether for the purposes of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of the prosecution or whether the relevant date is the date on which a Magistrate takes cognizance of the offence?

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5.2. Section 468 CrPC has to be read keeping in view other provisions particularly Section 473 CrPC. A person filing a complaint within time cannot be penalised because the Magistrate did not take cognizance. A person filing a complaint after the period of limitation can file an application for condonation of delay and the Magistrate could condone delay if the explanation is reasonable. If Section 468 is interpreted to mean that a Magistrate cannot take cognizance of an offence after the period of limitation without any reference to the date of filing of the complaint or the institution of the prosecution it would be rendered unconstitutional. A court of law would interpret a provision which would help sustaining the validity of the law by applying the doctrine of reasonable construction rather than accepting an interpretation which may make such provision unsustainable and ultra vires the Constitution. (U.P. Power



Corpn. Ltd. v. Ayodhya Prasad Mishra [(2008) 10 SCC 139 : (2008) 2 SCC (L&S) 1000] .)

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35. In this connection, our attention is drawn to the judgment of this Court in Sharadchandra Dongre [State of Maharashtra v. Sharadchandra Vinayak Dongre, (1995) 1 SCC 42 : 1995 SCC (Cri) 16] . It is urged on the basis of this judgment that by condoning the delay, the court takes away a valuable right which accrues to the accused. Hence, the accused has a right to be heard when an application for condonation of delay under Section 473 CrPC is presented before the court. Keeping this argument in mind, let us examine both the viewpoints i.e. whether the date of taking cognizance or the date of filing complaint is material for computing limitation. If the date on which complaint is filed is taken to be material, then if the complaint is filed within the period of limitation, there is no question of it being time-barred. If it is filed after the period of limitation, the complainant can make an application for condonation of delay under Section 473 CrPC. The court will have to issue notice to the accused and after hearing the accused and the complainant decide whether to condone the delay or not. If the date of taking cognizance is considered to be relevant then, if the court takes cognizance within the period of limitation, there is no question of the complaint being time-barred. If the court takes cognizance after the period of limitation then, the question is how will Section 473 CrPC work. The complainant will be interested in having the delay condoned. If the delay is caused by the Magistrate by not taking cognizance in time, it is absurd to expect the complainant to make an application for condonation of delay. The complainant surely cannot explain that delay. Then in such a situation, the question is whether the Magistrate has to issue notice to the accused, explain to the accused the reason why delay was caused and then hear the accused and decide whether to condone the delay or not. This would also mean that the Magistrate can decide whether to condone delay or not, caused by him. Such a situation will be anomalous and such a procedure is not known to law. Mr Luthra, learned ASG submitted that use of disjunctive “or” in Section 473 CrPC suggests that for the first part i.e. to find out whether the delay has been explained or not, notice will have to be issued to the accused and for the latter part i.e. to decide whether it is necessary to do so in the interest of justice, no notice will have to be issued. This question has not directly arisen before us. Therefore, we do not want to express any opinion whether for the purpose of notice, Section 473 CrPC has to be bifurcated or not. But, we do find this situation absurd. It is absurd to hold that the court should issue notice to the accused for condonation of



delay, explain the delay caused at its end and then pass an order condoning or not condoning the delay. The law cannot be reduced to such absurdity. **Therefore, the only harmonious construction which can be placed on Sections 468, 469 and 470 CrPC is that the Magistrate can take cognizance of an offence only if the complaint in respect of it is filed within the prescribed limitation period.** He would, however, be entitled to exclude such time as is legally excludable.

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37. We are inclined to take this view also because there has to be some amount of certainty or definiteness in matters of limitation relating to criminal offences. If, as stated by this Court, taking cognizance is application of mind by the Magistrate to the suspected offence, the subjective element comes in. Whether a Magistrate has taken cognizance or not will depend on facts and circumstances of each case. **A diligent complainant or the prosecuting agency which promptly files the complaint or initiates prosecution would be severely prejudiced if it is held that the relevant point for computing limitation would be the date on which the Magistrate takes cognizance. The complainant or the prosecuting agency would be entirely left at the mercy of the Magistrate, who may take cognizance after the limitation period because of several reasons; systemic or otherwise. It cannot be the intention of the legislature to throw a diligent complainant out of the court in this manner. Besides, it must be noted that the complainant approaches the court for redressal of his grievance. He wants action to be taken against the perpetrators of crime. The courts functioning under the criminal justice system are created for this purpose. It would be unreasonable to take a view that delay caused by the court in taking cognizance of a case would deny justice to a diligent complainant. Such an interpretation of Section 468 CrPC would be unsustainable and would render it unconstitutional.** It is well settled that a court of law would interpret a provision which would help sustaining the validity of the law by applying the doctrine of reasonable construction rather than applying a doctrine which would make the provision unsustainable and ultra vires the Constitution. (U.P. Power Corpn. Ltd. v. Ayodhya Prasad Mishra [(2008) 10 SCC 139 : (2008) 2 SCC (L&S) 1000] .)

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39. As we have already noted in reaching this conclusion, light can be drawn from legal maxims. Legal maxims are referred to in *Bharat Kale* [*Bharat Damodar Kale v. State of A.P.*, (2003) 8 SCC 559 : 2004 SCC (Cri) 39] , *Japani Sahoo* [*Japani Sahoo v. Chandra Sekhar Mohanty*, (2007) 7 SCC 394 : (2007) 3



SCC (Cri) 388] and Vanka Radhamanohari [Vanka Radhamanohari v. Vanka Venkata Reddy, (1993) 3 SCC 4 : 1993 SCC (Cri) 571] . The object of the criminal law is to punish perpetrators of crime. This is in tune with the well-known legal maxim *nullum tempus aut locus occurrit regi*, which means that a crime never dies. At the same time, it is also the policy of law to assist the vigilant and not the sleepy. This is expressed in the Latin maxim *vigilantibus et non dormientibus, jura subveniunt*. Chapter XXXVI CrPC which provides limitation period for certain types of offences for which lesser sentence is provided draws support from this maxim. But, even certain offences such as Section 384 or 465 IPC, which have lesser punishment may have serious social consequences. The provision is, therefore, made for condonation of delay. Treating date of filing of complaint or date of initiation of proceedings as the relevant date for computing limitation under Section 468 of the Code is supported by the legal maxim *actus curiae neminem gravabit* which means that the act of court shall prejudice no man. It bears repetition to state that the court's inaction in taking cognizance i.e. court's inaction in applying mind to the suspected offence should not be allowed to cause prejudice to a diligent complainant. Chapter XXXVI thus presents the interplay of these three legal maxims. The provisions of this Chapter, however, are not interpreted solely on the basis of these maxims. They only serve as guiding principles.

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Conclusion

50. Having considered the questions which arise in this reference in the light of legislative intent, authoritative pronouncements of this Court and established legal principles, we are of the opinion that Krishna Pillai [Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121 : 1990 SCC (Cri) 646] will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 CrPC, primarily because in that case, this Court was dealing with Section 9 of the Child Marriage Restraint Act, 1929 which is a special Act. It specifically stated that no court shall take cognizance of any offence under the said Act after the expiry of one year from the date on which offence is alleged to have been committed. There is no reference either to Section 468 or Section 473 CrPC in that judgment. It does not refer to Sections 4 and 5 CrPC which carve out exceptions for the special Acts. This Court has not adverted to diverse aspects including the aspect that inaction on the part of the court in taking cognizance within limitation, though the complaint is filed within time may work great injustice on the complainant. Moreover,



reliance placed on *Antulay '1984' case* [A.R. *Antulay v. Ramdas Srinivas Nayak*, (1984) 2 SCC 500 : 1984 SCC (Cri) 277], in our opinion, was not apt. In *Antulay '1984' case* [A.R. *Antulay v. Ramdas Srinivas Nayak*, (1984) 2 SCC 500 : 1984 SCC (Cri) 277] this Court was dealing inter alia with the contention that a private complaint is not maintainable in the Court of the Special Judge set up under Section 6 of the Criminal Law (Amendment) Act, 1952 ("the 1952 Act"). It was urged that the object underlying the 1952 Act was to provide for a more speedy trial of offences of corruption by a public servant. It was argued that if it is assumed that a private complaint is maintainable then before taking cognizance, a Special Judge will have to examine the complainant and all the witnesses as per Section 200 CrPC. He will have to postpone issue of process against the accused and either inquire into the case himself or direct an investigation to be made by a police officer and in cases under the Prevention of Corruption Act, 1947 by police officers of designated rank for the purpose of deciding whether or not there is sufficient ground for proceeding. It was submitted that this would thwart the object of the 1952 Act which is to provide for a speedy trial. This contention was rejected by this Court holding that it is not a condition precedent to the issue of process that the court of necessity must hold the inquiry as envisaged by Section 202 CrPC or direct investigation as therein contemplated. That is matter of discretion of the court. Thus, the questions which arise in this reference were not involved in *Antulay '1984' case* [A.R. *Antulay v. Ramdas Srinivas Nayak*, (1984) 2 SCC 500 : 1984 SCC (Cri) 277] : since there, this Court was not dealing with the question of bar of limitation reflected in Section 468 CrPC at all, in our opinion, the said judgment could not have been usefully referred to in *Krishna Pillai* [*Krishna Pillai v. T.A. Rajendran*, 1990 Supp SCC 121 : 1990 SCC (Cri) 646] while construing provisions of Chapter XXXVI CrPC. For all these reasons, we are unable to endorse the view taken in *Krishna Pillai* [*Krishna Pillai v. T.A. Rajendran*, 1990 Supp SCC 121 : 1990 SCC (Cri) 646].

51. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. We further hold that *Bharat Kale* [*Bharat Damodar Kale v. State of A.P.*, (2003) 8 SCC 559 : 2004 SCC (Cri) 39] which is followed in *Japani Sahoo* [*Japani Sahoo v. Chandra Sekhar Mohanty*, (2007) 7 SCC 394 : (2007) 3 SCC (Cri) 388] lays down the correct law. *Krishna Pillai* [*Krishna Pillai v. T.A. Rajendran*, 1990 Supp SCC 121 : 1990 SCC (Cri)



646] will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 CrPC.

52. The reference is answered accordingly. The Registry may list the matters before the appropriate courts for disposal.”

(emphasis supplied)

17. The learned Special Judge noted in the impugned order dated 30.03.2019 that the petitioners had failed to assail the order dated 07.05.2011 whereby the learned Trial Court had taken cognizance for offences under Sections 323/506/34 of the IPC. It was noted that although it is open to the accused to plead for his discharge at the stage of framing of charges, however, the accused then runs the risk that the Court will frame charges for more serious offences as has happened in this case. It was noted that the argument that the cognizance was bad in law is insignificant as the accused have now been charged with the offence under Section 506(II) of the IPC for which there is no period of limitation. It was also noted that in terms of Section 473 of the CrPC, the Court is justified in taking cognizance after the period of limitation even where delay has not been properly explained. It was rightly opined that delay in filing of charge sheet has been caused by the investigating officer and Respondent No.2 cannot be held responsible for the same.

18. In the present case, it is undisputed that the complaint was made by Respondent No.2 regarding the incident in the month of June, 2006 itself, that is, in the same month when the offence took place. Pursuant to the same, the FIR was registered in September, 2006. Thus, admittedly, there was no delay on part of Respondent No.2 in filing



the complaint and initiating the proceedings. Thereafter, the chargesheet was filed in the year 2009 and the cognizance was taken by the learned Magistrate on 07.05.2011.

19. As noted in *Sarah Mathew v. Institute of Cardio Vascular Disease (supra)*, Respondent No.2 cannot be prejudiced on account of any delay caused by the prosecuting agency in filing the chargesheet or the learned Court in taking cognizance. It is not the case of the petitioners that the chargesheet was delayed due to Respondent No.2 in any manner. In such circumstances, stifling the proceedings at this stage would cause gross miscarriage of justice and defeat the purpose of the remedy available to Respondent No.2, who had been diligent in filing the complaint in time. In view of the same, this Court finds no merit in the argument of the petitioners in this regard.

20. Insofar as the charges are concerned, it is relevant to note that charges have been framed against the accused persons for the offences under Sections 451/341/323/506(II)/34 of the IPC. It is argued that no case for the offences under Sections 451, 341 and 506(II) of the IPC is made out against the petitioners. It is apposite to succinctly discuss the statutory law with respect to framing of charge and discharge as provided under Sections 227 and 228 of the CrPC. The same is set out below:

“227. Discharge

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of Charge



(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

21. It is trite law that the learned Trial Court while framing 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.*

(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)

22. In a recent decision in *State of Gujarat v. Dilipsinh Kishorsinh Rao* : 2023 SCC OnLine SC 1294, the Hon'ble Apex Court has discussed the parameters that would be appropriate to keep in mind at the stage of framing of charge/discharge, 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.

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12. The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.”

(emphasis supplied)

23. In view of the above, it is clear that this Court, at this stage, 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, given the material placed before it, there is grave suspicion against the accused which is not properly explained.

24. However, it cannot be ignored that the scope of interference in exercise of inherent jurisdiction is more expansive.



25. It is an admitted case that Petitioner No.1 and Respondent No.2 are embroiled in matrimonial disputes with each other. In such circumstances, where there is possibility of the proceedings being manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance, the Court is permitted to look into the facts and circumstances of the case a little more closely in exercise of inherent jurisdiction. The Court can look into the attending circumstances emerging from the record of the case and can read between the lines. If the allegations are farfetched and it appears that the criminal machinery is being misused for personal gains, since it has become an increased tendency to implicate the relatives in the matrimonial disputes, this Court can interfere while exercising its inherent jurisdiction [Ref. *Mahmood Ali & Ors. v. State of U.P & Ors. : 2023 SCC OnLine SC 950*].

26. It is argued on behalf of the petitioners that no offence is made out against them and the learned Trial Court has erroneously framed charges without application of mind. It has also been argued that apart from Petitioner No.1, Petitioner No. 2 (mother of Petitioner No.1) and Petitioner No. 3 (brother of Petitioner No.1) her and brother, none of the other accused persons were even present at the spot.

27. A bare perusal of the record shows that the present case is essentially based on the statement of the complainant. While the allegations can be taken on a demurer at the stage of taking cognizance, however, at the stage of charge, the Court is required to sift through the material on record and give a *prima facie* finding.



28. The learned Trial Court has noted in the order on charge dated 24.01.2018 that the Investigating agency was not right to arrive at the conclusion that Section 451 of the IPC is not made out against the accused persons as they had no intention to commit offence when they entered the complainant's house. No finding on merits *qua* any of the other offences was given by the learned Trial Court.

29. On the other hand, the learned Revisional Court endorsed the aforesaid finding of the learned Trial Court. It was noted that at this stage, it could not be said that the threats levelled by the accused persons were merely empty threats and therefore Section 506(II) of the IPC was attracted. The learned Revisional Court noted that the alleged manner in which the accused persons had acted after they entered the house of the complainant, beaten him and further allegedly threatened his parents was sufficient to frame charges for offences under Sections 451/341/323/506(II)/34 of the IPC.

30. Insofar as the offence under Section 506 (II) of the IPC is concerned, it is trite law that mere exaggerated and empty threats are insufficient to constitute the aforesaid offence. In the present case, a vague allegation is made that the accused persons threatened to kill the parents of the complainant. It is also alleged that Petitioner No.2 threatened that the complainant would be kidnapped if the complainant and his parents don't obey the accused persons. The threats seem to be made in the heat of the moment. There is no allegation that the same caused any alarm either. Exaggerated threats of this nature cannot be said to constitute the aforesaid offence.



31. Similarly, the offences under Sections 451/341/323 of the IPC do not seem to be made out in the present case. There are no material findings in relation to the aforesaid offences so as to raise grave suspicion. In the opinion of this Court, the allegations fail to disclose the necessary ingredients to constitute the aforesaid offences.

32. While it is alleged that the complainant suffered multiple injuries and he was beaten with sticks and given fists and leg blows, however, as per the chargesheet, the injury was opined to be very minor in nature. The same was also not caused to any vital body part of the complainant. It is trite law that the law does not concern itself with trifles or actions that cause slight harm.

33. From the above, *prima facie*, it appears that the complainant had exaggerated the true version of events and his statement cannot be entirely deemed to be reliable.

34. As noted above, at the stage of framing of charge, the Court is not required to accept the prosecution's version as gospel truth. While the Court is not required to conduct a roving enquiry into the probative value of evidence, however, the Court is to sift the material on record to ascertain whether there is strong suspicion that the accused has committed the concerned offences.

35. From a bare perusal of the aforesaid order, it is clear that the Courts below have taken the allegations levelled by the complainant on a demurer. While the same may be sufficient to cast suspicion against the accused persons, however, in view of the aforesaid discussion, it does not inspire such a grave suspicion so as to warrant subjecting the accused persons to a trial.



2024:DHC:9696



36. This Court finds no infirmity with the impugned order dated 30.03.2019, however, considering that the prosecution has failed to establish a strong *prima facie* case against the petitioners, the impugned order dated 25.05.2019 is set aside. Consequently, the petitioners stand discharged in the present case.

37. The present petition is therefore allowed in the aforesaid terms.

38. Pending application also stands disposed of.

AMIT MAHAJAN, J

DECEMBER 16, 2024