



2024:DHC:3802



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 29.04.2024***+ **CRL. REV.P. 551/2022**

STATE

..... Petitioner

Through: Mr. Aman Usman, APP for the  
State

versus

SATISH KUMAR &amp; ORS.

..... Respondents

Through: None

**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the Order dated 17.02.2020 (hereinafter referred to as the 'Impugned Order') passed by the learned Additional Sessions Judge (Special FTC), New Delhi District, Patiala House Courts, New Delhi (hereinafter referred to as the 'Trial Court') in SC No. 384/2019, ***State v. Mohit & Ors.***, discharging the respondents in the above case arising out of FIR No. 37/2018 under Sections 376/354C/323/506 of the Indian Penal Code, 1860 (in short, 'IPC') registered at Police Station: Mandir Marg, New Delhi.

**Factual Matrix:**

2. The above FIR was registered on the complaint of the prosecutrix, who alleged that in the month of February 2017, she got a friend request from the accused no.1, Sh. Mohit, on the social media

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platform Facebook, which was accepted by her. Thereafter, they became friends with each other and started meeting each other. It is alleged that after some meetings, the said accused proposed the prosecutrix for marriage in response to which, she asked him to introduce her to his family. In the first week of February 2018, the said accused called the complainant at his house and introduced her to his father, mother, and brother, that is, the respondents herein, and also other relatives, as his to be wife. It is alleged that she asked the said accused to make his family agree to the marriage. It is alleged that the prosecutrix had also informed her sister and brother-in-law about the accused, Sh.Mohit.

3. It is further the case of the prosecution that on 22.02.2018, the accused called the prosecutrix and insisted on marriage, but the prosecutrix refused and stated that before marriage, she was also required to take permission from her family. It is stated that thereafter, the said accused took her to his house where his family members made her understand that she was their daughter-in-law and promised that she will be married to the said accused.

4. It is further alleged that the accused Sh.Mohit threatened her to reside with him at his house or else he would commit suicide. She, therefore, agreed to reside at his house and remained there from 22.02.2018 to 03.03.2018.

5. The prosecutrix alleges that during the period of her stay at his house, the accused Sh. Mohit forcibly established sexual relations with her and she was not allowed to go out of the house being the bride of the family.



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6. It is alleged that on 03.03.2018, when the prosecutrix again requested the said accused for marriage, he scolded her and beaten her up, but she managed to escape from the house after taking her mobile phone. It is further stated that as soon as she reached her house, the said accused again called her and promised her to marry.

7. It is further the case of the prosecution that on 11.03.2018, the accused took her on an excursion to Haridwar, Rameshwaram, Kanya Kumari, and Mussoorie. It is stated that they stayed at different hotels during the trip, where also the said accused developed forcible physical relations with her on the pretext that they were husband and wife and marriage was merely a social obligation. Thereafter, they returned back to Delhi.

8. It is further alleged that the prosecutrix again insisted the accused for marriage, however, instead of acceding to the same, he asked her to bring money and only then he will marry her or else threatened to leak out the videos of them spending nights at the hotels. It is alleged that the said accused had also threatened her of dire consequences.

9. It is thereafter that the prosecutrix filed the abovementioned complaint stating that under the pressure of his family, the accused, Sh.Mohit developed sexual relations on the false pretext of marriage, inflicted beatings on her, and further demanded money by extending threats.

10. The charge-sheet was filed against the accused persons namely, Sh.Mohit under Sections 376/354C/323/506 of the IPC; the

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respondent nos. 1 and 3 herein under Sections 323/506 of the IPC; and the respondent no.2 herein under Section 506 of the IPC.

11. By the Impugned Order, the learned Trial Court has discharged the respondents herein, however, proceeded to frame charges against the accused Sh.Mohit under Sections 323/376/506 of the IPC.

12. The petitioner/State being aggrieved of the said Order has filed the present petition.

**Submissions of the Learned APP for the State:**

13. The learned APP submits that the learned Trial Court has failed to appreciate that there was a grave suspicion and a strong *prima facie* case against the respondents herein. The respondents could not, therefore, have been discharged.

14. Placing reliance on the judgment of the Supreme Court in State of *Gujarat v. Dilipsinh Kishorsinh Rao*, 2023 SCC OnLine SC 1294, he submits that the learned Trial Court has erred in conducting a roving inquiry and in conducting a mini-trial at the stage of framing of charge.

15. He submits that the prosecutrix has made specific allegations against the respondents herein that in the month of February, 2018, the accused Mohit introduced her to his family member who made her believe that she was their daughter-in-law and promised her that she would be married to the said accused. He submits that the respondents herein have, therefore, aided the accused Mohit, in establishing a sexual relationship with the prosecutrix on the false pretext of marriage. He submits that the respondents herein were also present at the spot of the incident and were well aware of the alleged crime being



committed by the accused Mohit. He submits that she has also stated that she was not allowed to go out of the house of the accused persons.

16. Placing reliance on the judgment of the Supreme Court in *Dinesh Tiwari v. State of U.P. & Anr.*, (2014) 13 SCC 137, and of this Court in *Robin Sethi v. State (NCT of Delhi)*, 2013:DHC:4650, he submits that if there exists a ground for presuming the involvement of the accused in the commission of the offence, the charge is made out against the said accused.

17. He submits that the learned Trial Court has erred in not considering the fact that at the stage of framing of charge, the Court is to only evaluate the probative value of the material and documents on record filed by the prosecution and has to take them on their face value. He submits that even if there are two views possible, the Court should adopt the view supporting the case of the prosecution.

18. However, the learned APP, fairly submits that the accused Sh.Mohit has been acquitted of offence charged by the learned Trial Court vide its Judgment/Order dated 05.04.2024 passed in the subject proceedings.

**Analysis and Findings:**

19. I have considered the submissions made by the learned APP. I have also perused the contents of the charge-sheet as also the Impugned Order of the learned Trial Court.

20. It is a trite law that at the time of framing of charge, the Court has to *prima facie* consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or



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not for convicting the accused or holding him/her guilty. Hence, for the said limited purpose, the evidence produced on record by the prosecution can be sifted and weighed to find out if at all the ingredients necessary to constitute the offence are made out or not as would necessitate the framing of charge. This is contrary to the satisfaction which the learned Trial Court would have to arrive at the conclusion of the trial, when the guilt of the accused must be proved beyond reasonable doubt. Reference in this regard can be made to the judgment of the Supreme Court in ***Suresh v. State of Maharashtra***, (2001) 3 SCC 703, wherein it was held as under:-

*“9. We do not feel it necessary to repeat the discussions on the different points and the decisions which have been referred to in the judgment. However we notice a few recent decisions of this Court touching on the question. In the case of State of Maharashtra vs. Priya Sharan Maharaj and others: 1997 Cri LJ 2248, this Court referring to the case of Niranjana Singh Karam Singh Punjabi vs. Jitendra Bhimraj Bijjaya: 1990 CriLJ 1869, held that at the stage of sections 227 and 228 the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The Court may, 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 board probabilities of the case. Therefore, at the stage of framing of the charge the Court has to consider the material with a view to find out if there is ground for presuming that the accused has committed the offence or that there is not sufficient ground for proceeding against him*

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*and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.”*

21. The Supreme Court in ***Union of India v. Prafulla Kumar Samal & Anr***, (1979) 3 SCC 4, has elaborately discussed and summarized the law relating to framing of charge/discharge under Sections 227 and 228 of the Cr.P.C., holding as under:

*“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:*

*(1) That the Judge while considering the question of framing the charges under section 227 of the Code 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:*

*(2) 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.*

*(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however 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 within his right to discharge the accused.*

*(4) That in exercising his jurisdiction under section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post office or a mouth-piece 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 appearing in the case and so*



*on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”*

22. The above principles have been reiterated by the Supreme Court in ***Dilawar Balu Kurane v. State of Maharashtra***, (2002) 2 SCC 135 and ***Sajjan Kumar v. CBI***, (2010) 9 SCC 368.

23. In the present case, the allegations advanced by the prosecutrix in the complaint, in as far as against the respondents herein are concerned, are vague and lack specific details of the incidents. It is to be noted that no specific incident, date, time, and place of the alleged commission of the offence by the respondents herein were disclosed by her in the complaint. In fact, the prosecutrix has impleaded the respondents on the ground that they have aided the main accused, Sh.Mohit for committing the alleged offence against her, but the question as to ‘how’ the said abetment/aid has happened, appears to be not answered in her complaint as also in the statements under Section 164 and Section 161 of the Cr.P.C.. The prosecutrix is an adult and knew of the consequences of living with the main accused without marriage. She has also extensively travelled with him. It is not her case that the respondents have in any manner forced her to stay with the main accused-Sh.Mohit or instigated Sh.Mohit to commit any offence with her.

24. It is an established principle of law that the charge has to be framed not only on mere suspicion but grave suspicion of the involvement of the accused in the commission of the offence. In the present case, after perusing the contents of the chargesheet, in my



view, even if the allegations made by the prosecutrix are taken on their face value, they do not suffice to create a grave suspicion on the role of the respondents, warranting framing of charge against them. As noted hereinabove, at the time of framing of charge, the learned Trial Court cannot be a mere mouth-piece or post office of the prosecution and has to apply its mind and consider the broad probabilities of the matter and in my opinion, the learned Trial Court has rightly done so in the Impugned Order while discharging the respondents herein.

25. In the facts of the present case, the allegations made by the prosecutrix appear only to be an attempt to seek vengeance from all the family members of the main accused Mohit. Coupled with this is the fact that, now, the main accused Mohit, has been acquitted by the learned Trial Court by its Order dated 05.04.2024 in the subject proceedings. The whole case of the prosecution revolves around the relationship between the prosecutrix and Mohit and the allegations against the respondents herein are that they have aided Mohit to commit the alleged offence against the prosecutrix. Now that the main accused Mohit stands acquitted by the learned Trial Court after appreciation of evidence in the Trial, the charge against the respondents herein should even otherwise not stand today.

26. The law in relation to the powers of this Court under Section 397 read with 401 of the Cr.P.C. in the revision proceedings against the Order on charge passed by the Trial Court is now well settled and no longer *res integra*. This Court in a revision is not supposed to exercise the jurisdiction like an appellate Court and the scope of interference is extremely narrow. This Court in a revision petition is



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only concerned with the correctness, legality, or propriety of any finding or order passed by the learned Trial Court; it should only interfere where there is any patent illegality or defect or there is an error of jurisdiction or law; there has to be a well-founded error. Reference in this regard can be made to the judgments of the Supreme Court in *Malkeet Singh Gill v. State of Chattisgarh* (2022) 9 SCC 204 and *Suresh v. State of Maharashtra*, (2001) 3 SCC 703.

27. Keeping in view the above principles of law, the facts of the present case, as well as the extent of jurisdiction to be exercised by this Court in a revision petition, this Court finds no reason to interfere with the Impugned Order passed by the learned Trial Court.

28. The petition is, accordingly, dismissed. There shall be no order as to costs.

**NAVIN CHAWLA, J**

**APRIL 29, 2024/AS**

[Click here to check corrigendum, if any](#)

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