



2024:DHC:2583



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

+ CRL.REV.P. 825/2022 & CRL.M.A. 25163-64/2022
RAJAT RANA @ RAHUL RANA Petitioner
Through: Mr.Mohin Akhtar, Mr.Mukesh
Kumar,Advs.
versus

STATE OF NCT OF DELHI & ANR. Respondents
Through: Ms.Priyanka Dalal, APP with
SI Rajesh Chauhan.
Mr.Arjun Malik, Adv for R-2.

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

1. This petition has been filed under Sections 397, 406 read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the order dated 01.08.2022 passed by the learned Additional Sessions Judge (Spl. FTC), in Case No.SC No.358/2022, titled *State v. Rajat Rana*, framing charges under Sections 376/354C/384/506(Part-I) of the Indian Penal Code, 1860 (in short, 'IPC') against the petitioner, herein.

2. It is the case of the prosecution that on 14.03.2022, a complaint was received from the prosecutrix at Police Station: Jaitpur, alleging therein that she had met the accused/petitioner herein in Lajpat Nagar. He had promised to get her a job. The prosecutrix further alleged that



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between 15 to 18 January, 2022, the petitioner came to her house at Jaitpur and sexually assaulted her. She further stated that the petitioner also started extorting money and gold from her on threat of having certain obscene photographs and videos of her on his mobile phone and laptop. Subsequently, on the basis of the above complaint, FIR No.0174/2022 dated 14.03.2022 was registered at Police Station: Jaitpur, South East District for offence under Sections 376/506 of the IPC. Upon completion of the investigation, the charge-sheet was filed, and by way of the Impugned Order, charges have been framed against the petitioner.

3. The learned counsel for the petitioner submits that the FIR and the charge-sheet are based on the false and baseless allegations against the petitioner, and are without mentioning any particulars in the same. He submits that, while in the FIR, it is stated that the petitioner had committed sexual assault on the prosecutrix between 15th to 18th January, 2022, in her statement recorded under Section 161 of the Cr. P.C., the prosecutrix stated that sexual assault had taken place between 17th and 18th January, 2022.

4. He submits that the FIR also indicates to the different places wherein the sexual assault allegedly took place, namely, Lajpat Nagar, Hari Nagar- Ashram, and at Jaitpur, which is in contradiction to the statement of the prosecutrix recorded under Section 161 Cr.P.C.

5. He submits that there is also an unexplainable delay in making of the complaint.

6. He submits that even otherwise, the prosecution, in the charge-sheet had not invoked Sections 354C/384 of the IPC. Thus, the



learned Trial Court has erred in framing charges under these sections against the petitioner.

7. On the other hand, the learned APP and the learned counsel for the prosecutrix support the Impugned Order by contending that there are specific allegations made by the prosecutrix of having been sexually assaulted by the petitioner on more than one occasion. They submit that the petitioner extorted money and also jewellery item(s) on the threat of exposing the photographs and the videos that he had on his mobile phone as also on the laptop. They submit that the Impugned Order has, therefore, rightly charged the petitioner of the offence including Sections 354C and 384 of the IPC.

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

9. In the present case, the prosecutrix has been steadfast in her allegation that the petitioner has sexually assaulted her between 15th to 18th January, 2022 and on one or two occasions thereafter. She has also stated that he had threatened her by stating that he is in possession of certain obscene photographs and videos of the prosecutrix. It is the case of the prosecutrix that in fact the jewellery item(s) have also been recovered from the possession of the petitioner.

10. It is to be remembered that, at the stage of framing the charge, the prosecution's case is not to be proved at the threshold of proof beyond reasonable doubt but only on touchstone of *prima facie* grave suspicion being made out. The law in this regard is well settled, and I make reference to the judgement of the Supreme Court in ***State of Rajasthan v. Ashok Kumar Kashyap***, (2021) 11 SCC 191.



11. Recently, the Supreme Court in *State of Gujarat v. Dilipsinh Kishorsinh Rao*, 2023 SCC OnLine SC 1294, has observed 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



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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)

12. Applying the above test to the facts of the present case, I find no infirmity in the Impugned Order. Accordingly, the petition is dismissed. Pending applications are also disposed of.

13. Needless to state that any observation made in the present order shall not in any manner prejudice the learned Trial Court during the trial before it.

NAVIN CHAWLA, J

APRIL 1, 2024/Arya/RP

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