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

+ **CRL.REV.P. 998/2024**

STATE (GNCTD)

.....Petitioner

Through: **Ms. Shubhi Gupta, APP for the State
with SI Gayatri, P.S. BHD Nagar.**

versus

SACHIN & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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05.08.2024

CRL.M.A. 22944/2024 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

Application stands disposed-of.

CRL.M.A. 22945/2024

By way of the present application filed under section 5 of the Limitation Act, 1963 read with section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C'), the petitioner seeks condonation of 116 days' delay in *filing* the revision petition.

2. For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed.
3. Delay in *filing* the revision petition is condoned.
4. The revision petition is taken on Board.
5. The application stands disposed-of.



CRL.REV.P. 998/2024

6. By way of the present revision petition filed under section 397 of the Cr.P.C., the petitioner impugns order dated 01.11.2023 passed by the learned Additional Sessions Judge, Dwarka Courts, Delhi, discharging the accused persons, viz. respondent No. 1 (husband), respondent No.2 (brother-in-law) and respondent No.3 (mother-in-law) for the offences under sections 498/406/376/34 of the Indian Penal Code, 1860 ('IPC').
7. *Vide* impugned order dated 01.11.2023, the learned Sessions Judge was pleased to discharge the accused persons of all the offences for the following reasons, as recorded in that order :

“Perusal of the statement given by the prosecutrix to CAW cell dated 30.05.2022 whereon subsequently FIR was registered does not mention any specific date and month when the alleged beatings were given by husband namely Sachin and her mother in law namely Seema. The prosecutrix has stated that forcible sexual relations were established by brother of her husband namely Sahil. Even with regard to this incident there is no mention of any date, month and time.

“Even the statement of the prosecutrix u/s 164 Cr.PC also does not specify any date and time when the alleged beatings were given by her husband namely Sachin and her mother in law namely Seema. Similarly, there is no mention of date and time with regard to alleged incident of forcible rape committed by the brother of her husband namely Sahil.

“In such circumstances, the allegations made by the prosecutrix are ambiguous and prima facie do not make a strong case so as to frame charges against the accused persons. Hence, all three accused persons namely Sachin, Sahil and Seema are discharged hereby. Sureties if any stands discharged.”

(emphasis supplied)



8. Ms. Shubhi Gupta, learned APP appearing for the State submits, that the sole basis on which the learned Sessions Judge has discharged the accused persons is that the complainant had failed to give any date, month, year or time on which the offences are alleged to have committed. Learned APP submits however, that the complainant was categorical that she had been subjected to beatings, sexual assault and other offences by her husband, her brother-in-law as well her mother-in-law.
9. Ms. Gupta draws attention to the contents of the FIR as set-out in chargesheet dated 28.04.2023 filed in the matter, to submit that the complainant had initially made a complaint against the accused persons on 03.11.2021; which complaint was however subsequently withdrawn based on a settlement reached under the aegis of the Panchayat.
10. Ms. Gupta argues that the time-frame during which the alleged offences have been committed against the complainant is between November 2021 (when a settlement had been reached between the parties under the aegis of the Panchayat) and May 2022 (when the second complaint was made by the complainant to the ACP, CAW Cell).
11. It is noticed from the record that the second complaint made to the CAW Cell is dated 30.05.2022, pursuant to which the FIR came to be registered on 02.01.2023.
12. Ms. Gupta further submits that pursuant to the making of the second complaint and registration of the FIR, investigation was conducted



and a chargesheet has been filed in the matter, the relevant portion whereof reads as follows :

“... .. I had complained on 3 November 2021, later we took a mutual Panchayat decision. Today I have come again with a complaint. My husband started beating me again. He started demanding money from the family members. He started forcing me to do a job. He asked me to get the money by hook or crook, even if it meant to sell my body.

“When I didn’t obey, he beat me and locked me in a room. Meanwhile, my brother-in-law Sahil tried to rape me. When I didn’t listen to my brother-in-law, he also beat me and forced me to have sex with him. They neither allowed me to leave the house nor to talk to my family. After 3-4 days I found a job somewhere. I started going there, my husband and my brother-in-law went there and started causing a scene. I got up and went from there to the nearby Sai Baba temple and when I came home around 5 in the evening, he fought with me and threw me out of the house saying that she has come after selling her body and her family also does this kind of work. My husband used to take sex pills and used to force himself on me all night. These people also burnt my documents, such as 10th and 12th mark sheets so that I could not get a job anywhere. After that he has come to my house 2-3 times to take me but now I do not want to go there. So when I was thrown out of the house, I went to my friend F’s house and from there I went to Baba Haridas police station. Here I complained and my family members took me away. You are requested to take appropriate action against my husband, my sister-in-law and my in-laws. My father is a poor man. Those who barely manage their living, I request you to take appropriate action”

13. A perusal of the chargesheet shows, that even during the course of investigation the prosecutrix has offered no specificity or particulars in relation to the alleged offences that she says were committed against her – *with not the slightest indication of the place, date, month, or year* in which the offences were committed against her. The



investigation has also not brought on record any other material or evidence to provide any specifics in relation to the allegations made by the prosecutrix. Also, it is a matter of record that the complainant was never medically examined, either in relation to the allegation of having been beaten or of sexual assault having been committed upon her; and no MLC is available on record.

14. In the circumstances, this court wonders as to what charge, if any, could be framed against the accused persons, *so that the accused persons would know with sufficient specificity as to what offences they are charged with*. It is settled law that the purpose of framing charge is to communicate to an accused the precise and unambiguous nature of accusation that the accused is called upon to answer in the course of trial. A reference in this behalf may be made to a decision of the Supreme Court in ***V.C. Shukla vs. State through C.B.I.***,¹ in which it has been observed as follows :

“109. What is the purpose or object in framing a charge?

“110. When the accused is brought before a court, he is supplied with copies of documents referred to in Section 207. Now, these documents may contain a number of matters and the accused may be at large as to what is the specific accusation, he is supposed to meet. Charge serves the purpose of notice or intimation to the accused, drawn up according to specific language of law, giving clear and unambiguous or precise notice of the nature of accusation that the accused is called upon to meet in the course of a trial. Section 211 clearly prescribes what the charge should contain and a bare reading of it would show that the accused must be told in clear and unambiguous terms allegations of facts constituting the offence,

¹ 1980 Supp SCC 92



the law which creates offence with a specific name, if given to it, and the section which is alleged to be violated with the name of the law in which it is contained. The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case. It is thus an intimation or notice to the accused of what precise offence or what allegations of facts he is called upon to meet. The object of a charge is to warn an accused person of the case he is to answer. It cannot be treated as if it was a part of a ceremonial [B.N. Srikantiah v. State of Mysore, AIR 1958 SC 672 : 1959 SCR 496 : 1958 Cri LJ 1251].”

(emphasis supplied)

15. In the opinion of this court, in the present case the accused persons would be wholly unable to defend themselves in the course of trial, since the chargesheet is completely bereft of any context of place, or time – not even the month or the year – in which the offences are alleged to have been committed by them. To cite an example, if an accused was to have the defence of *alibi*; or was to negate an allegation with the support of a defence witness, how would such a defence be brought forth when there is no specificity as to the place, date, or time in relation to the offence itself. Though, it is true, that depending on the nature of the offence, it may not be possible for a victim to give the *precise* time at which an offence was committed, it is equally true that when there is absolutely *no ‘place’ or ‘time’ context* in relation to an alleged offence, that level of vagueness makes the incidence of the offence itself speculative.
16. In the circumstances, this court does not find any flaw in the order of the learned Sessions Judge, which has opined that since the allegations made by the complainant are ambiguous, no strong *prima-*



facie case is made-out against any of the accused persons, sufficient for the court to frame charges against them.

17. In view of the above, this court does not find anything remiss in the correctness, legality or propriety of any finding in the impugned order made by the learned Sessions Judge.
18. The revision petition accordingly stands dismissed *in-limine*.
19. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 5, 2024

V.Rawat