



2024:DHC:8478



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

Date of decision: 29th OCTOBER, 2024

IN THE MATTER OF:

+ **CRL.REV.P. 1135/2024 & CRL.M.A. 27678/2024**

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.....Petitioner

Through: Mr. Prafulla, Mr. Suraj Kumar Jha,
Mr. Varsha Rani, Mr. Kartik
Srivastava and Mr. Kuldeep Singh,
Advocates.

versus

STATE OF GNCT OF DELHI THROUGH SHO PS NEW ASHOK
NAGAR DELHI & ORS.Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State.
WSI Ingkumnaro, PS New Ashok
Nagar.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

CRL.M.A. 27676/2024 (Delay)

1. This application has been filed by the Petitioner for condonation of delay of 144 days in filing the present petition.
2. For the reasons stated in the application, the same is allowed and the delay in filing the present petition is condoned.
3. The application is disposed of.

CRL.REV.P. 1135/2024 & CRL.M.A. 27678/2024 (Interim Stay)

1. The Petitioner/Complainant has approached this Court challenging the Order dated 04.01.2024 passed by the Ld. ASJ, (Special Fast Track Court), East District Karkardooma Courts, New Delhi discharging Rajeev



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Rathi/Respondent No.2 herein from offences punishable under Sections 506 and 509 IPC and Preeti Rathi/Respondent No.3 from the offence punishable under Section 509 IPC.

2. Shorn of unnecessary details, facts leading to the filing of the present petition are that the present FIR No.239/2023 dated 22.05.2023 was registered at Police Station New Ashok Nagar for offences punishable under Sections 376/406/506/509/34 IPC on a complaint made by the Petitioner herein. In the complaint, the Petitioner herein stated that she came in contact with the Accused - Bhanu Pratap Rathi who was her neighbour residing in the same building on different floor. It is stated that the Petitioner and the Accused - Bhanu Pratap Rathi started talking to each other. It is stated that after some days, the Accused - Bhanu Pratap Rathi proposed the Petitioner for friendship which was accepted by the Petitioner. It is stated that, thereafter, the Petitioner and the Accused - Bhanu Pratap Rathi started having food together in the room of the Petitioner. It is stated that on 03.06.2022, the Accused - Bhanu Pratap Rathi proposed the Petitioner for marriage. It is stated that the Petitioner sought some time for consulting her family members and, thereafter, they kept talking to each other normally. It is alleged by the Petitioner that on 26.06.2022 when she was in her room, the Accused - Bhanu Pratap Rathi came into her room and started forcing himself upon her. It is stated that when the Petitioner opposed, the Accused - Bhanu Pratap Rathi told the Petitioner that they both considered themselves as husband and wife in their minds and despite the Petitioner's refusal, the Accused - Bhanu Pratap Rathi forcibly made physical relations with the Petitioner. It is stated by the Petitioner that the Accused - Bhanu Pratap Rathi repeatedly used to ask for money from her which she gave to him



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through online or cash mode. It is stated that the Petitioner has recorded all the monetary transactions between her and the Accused - Bhanu Pratap Rathi. It is stated that the Petitioner told her family members about her relationship with the Accused - Bhanu Pratap Rathi. It is stated that, thereafter, the family members of the Petitioner talked to Accused - Bhanu Pratap Rathi on phone in August 2022 and finally, the family members of the Petitioner and Accused - Bhanu Pratap Rathi met each other on 31.12.2022 in Ujjain and the family members of the Petitioner agreed for marriage. It is alleged by the Petitioner that on 26.04.2023, the Accused - Bhanu Pratap Rathi forcibly made sexual relations with the Petitioner and on the next day i.e. on 27.04.2023, the Accused - Bhanu Pratap Rathi left for his home in Uttar Pradesh by stating that he had to meet his family members. It is stated that from 02:00 P.M. on 29.04.2023, the phone of the Accused - Bhanu Pratap Rathi was switched off. It is stated that on apprehending that some untoward incident has happened and finding no other way but to confront Bhanu Pratap Rathi, the Petitioner went to Uttar Pradesh. It is stated that on reaching the house of the Accused - Bhanu Pratap Rathi, the parents of the Accused - Bhanu Pratap Rathi and his Grand-Mother abused her and did not allow her to enter the house and she was threatened with dire consequences if she would not return to Delhi. It is stated that on returning to Delhi she repeatedly tried to contact the Accused - Bhanu Pratap Rathi but she was not able to get to the Accused - Bhanu Pratap Rathi and, therefore, the complaint was filed by the Petitioner on the basis of which the present FIR was registered.

3. The statement of the Petitioner under Section 164 Cr.P.C was recorded wherein she has reiterated her allegations against the accused



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persons. The Accused - Bhanu Pratap Rathi was arrested on 22.06.2023 from his native place. The Accused - Bhanu Pratap Rathi was medically examined. CDR of the mobile phone of the Accused - Bhanu Pratap Rathi and the Petitioner was obtained and analysed. The accused persons i.e., Rajeev Rathi/Respondent No.2 herein, who is the father of the Accused - Bhanu Pratap Rathi, Preeti Rathi/Respondent No.3 herein, who is the mother of the Accused - Bhanu Pratap Rathi, and Mokam Devi, who is the grand-mother of the Accused - Bhanu Pratap Rathi, were served notice under Section 41A Cr.P.C to join investigation and they were bound down in the case. Chargesheet was filed against the Accused - Bhanu Pratap Rathi for offences punishable under Sections 376/406/34 IPC, against Rajeev Rathi/Respondent No.2 for offences punishable under Sections 506/509 IPC, against Preeti Rathi/Respondent No.3 for offences punishable under Sections 509/34 IPC and against Mokam Devi/grand-mother for offences punishable under Sections 509/506/34 IPC. *Vide* Order dated 04.01.2024 passed by the Ld. ASJ (Special FTC), East KKD, Delhi, which is not under challenge in the present petition, charges were framed against the accused persons. *Vide* Order dated 04.01.2024, which is under challenge in the present petition, Rajeev Rathi/Respondent No.2 herein was discharged from offences punishable under Sections 506 and 509 IPC and Preeti Rathi/Respondent No.3 was discharged from the offence punishable under Section 509 IPC.

4. It is this Order dated 04.01.2024 discharging Rajeev Rathi/Respondent No.2 herein from offences punishable under Sections 506 and 509 IPC and Preeti Rathi/Respondent No.3 from the offence punishable under Section 509 IPC, which is under challenge in the present petition.



5. Learned Counsel appearing for the Petitioner strenuously contends that the allegations against the grand-mother, father and the mother of the Accused - Bhanu Pratap Rathi is more or less identical. He states that the ingredient of Sections 506/509 IPC is made out against Respondent No.2, ingredient of Section 506 IPC is made out against Respondent No.3 and there is no difference in the allegations against Respondents No.2 & 3 and the grandmother of the Accused - Bhanu Pratap Rathi. He submits that the Court cannot go into the veracity of the allegations and proceed as if it is conducting a trial at the time of framing of charges. He states that grave suspicion is made out that the offence has been committed by the accused persons and, therefore, the Court must proceed further. He states that the Court has evaluated the ingredients of offences at the time of framing of charges which the Court is not permitted to do so.

6. Heard learned Counsel appearing for the Petitioner and perused the material on record.

7. This Court has carefully looked into the material on record i.e., the complaint and the chargesheet. Chargesheet has reproduced the statement of the Petitioner given under Section 164 Cr.P.C before the Magistrate. In the statement given by the Petitioner under Section 164 Cr.P.C, the Petitioner has reiterated all her allegations that she came in contact with the Accused - Bhanu Pratap Rathi who was her neighbour residing in the same building on different floor. It is stated that the Accused - Bhanu Pratap Rathi proposed the Petitioner for friendship which was accepted by the Petitioner and later on the Accused - Bhanu Pratap Rathi also proposed the Petitioner for marriage. It is stated that the Accused - Bhanu Pratap Rathi forcefully established physical relations with the Petitioner against her wish and made



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the Petitioner to pay money to the Accused - Bhanu Pratap Rathi. It is also stated that the parents of the Petitioner met the Accused - Bhanu Pratap Rathi in Ujjain and the family members of the Petitioner agreed for marriage. It is stated that the Accused - Bhanu Pratap Rathi had promised the Petitioner that he would marry her in June, 2023. It is stated that in April, 2023, the Accused - Bhanu Pratap Rathi informed the Petitioner that his parents are not agreeing for marriage but by that time invitations had been sent to all the relatives of the Petitioner. It is stated that the Accused - Bhanu Pratap Rathi had informed the mother of the Petitioner that he would convince his parents for marriage and the mother of the Petitioner need not talk to his parents. It is stated that on 29.04.2023, the phone of the Accused - Bhanu Pratap Rathi was switched off and on apprehending some untoward incident and in panic mode, the Petitioner went to the house of the Accused - Bhanu Pratap Rathi in Uttar Pradesh. It is stated in the statement under Section 164 Cr.P.C that the grand-mother of the Accused - Bhanu Pratap Rathi asked the Petitioner to go away and abused her and uttered such words which would have the effect of insulting the modesty of the Petitioner. The kinds of abuse has been categorically written in the statement given under Section 164 Cr.P.C and has also been reproduced by the Ld. Magistrate in Impugned Order. However, against the Respondent No.2/father of the Accused - Bhanu Pratap Rathi it is only stated that he only asked the Petitioner to go away otherwise he would kill the Petitioner. There is nothing against the Respondent No.3/mother of the Accused - Bhanu Pratap Rathi in the statement given by the Petitioner under Section 164 Cr.P.C.

8. The short question which, therefore, arises for consideration is whether the Impugned Order discharging the father and mother of the



Accused - Bhanu Pratap Rathi requires any interference or not.

9. The Ld. Trial Court has discharged the mother and father of the Accused - Bhanu Pratap Rathi by holding that there is no sufficient evidence against them. However, the Ld. Trial Court has framed charges against the grand-mother of the Accused - Bhanu Pratap Rathi by quoting the exact words uttered by the grant-mother, which in the opinion of this Court, does affect the modesty of the Petitioner.

10. Section 503 IPC defines criminal intimidation, Section 506 IPC provides punishment for criminal intimidation and Section 509 provides punishment for words, gesture or act intended to insult the modesty of a woman. Sections 503, 506 and 509 IPC reads as under:

"503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

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506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;



If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

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509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, [shall be punished with simple imprisonment for a term which may extend to three years, and also with fine]."

11. The Apex Court in Manik Taneja v. State of Karnataka, (2015) 7 SCC 423, while exercising its powers under Section 482 Cr.P.C for quashing of an FIR registered under Sections 503/506 IPC, has observed as under:

"12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section.



But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of the appellants posting a comment on Facebook may not attract ingredients of criminal intimidation in Section 503 IPC."

12. A perusal of the statement given by the Petitioner under Section 164 Cr.P.C shows that there is nothing mentioned against Respondent No.3 regarding any threat or intimidation given to the Petitioner by Respondent No.3. There is also nothing in the FIR that Respondent No.3 has used any word, gesture or act intended to insult the modesty of the Petitioner and has criminally intimidated the Petitioner. In the absence of any specific allegation or averment against Respondent No.3, this Court is not in a position to interfere with the discharge of Respondent No.3 from the offence punishable under Section 506 IPC.

13. As far as Respondent No.2 is concerned, Respondent No.2 had asked the Petitioner not to enter the house and to go away and had used the word that he would kill the Petitioner if she did not go back. As stated by the Apex Court in Manik Taneja (supra) that mere expression of any words without any intention to cause alarm is not sufficient to bring in the application of Sections 506/509 IPC. There is no word, gesture or act attributed to Respondent No.2 that would show his intention to insult the modesty of the Petitioner and, therefore, the ingredients of Section 506/509



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IPC is not made out against Respondent No.2. Even the allegation that the Respondent No.2 has threatened the Petitioner to kill her does not bring out that the Respondent No.2 had any intention to kill the Petitioner and it was only to prevent the Petitioner from entering the house. Therefore, Court is also not in a position to interfere with the discharge of Respondent No.2 from offences punishable under Section 506/509 IPC.

14. In view of the above, this Court is not inclined to interfere with the Impugned Order discharging the Respondent Nos.2 and 3 herein.

15. Resultantly, the petition is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

OCTOBER 29, 2024

S. Zakir