



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO. 113 OF 2025

APPLICANT

Sau. Jagpreet Kaur Alias Madhu
Pritpalsingh Khanija.
Aged about 54 years. Occupation -
household, R/o. C-3, Amardeep Society,
Near Kadbi Chowk, Kamptee Road,
Nagpur

-VERSUS-

RESPONDENT

The State of Maharashtra, through
Police Station Officer, Police Station
Jaripatka, District Nagpur.

Mr. J.B. Gandhi, counsel for applicant.
Mr. Amit Madiwale, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 09/07/2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with the consent of learned
counsels appearing for the parties.
3. By this criminal revision application, the applicant has

challenged the order passed by the Adhoc District Judge-9 and Additional Sessions Judge, Nagpur, rejecting the application of the present applicant for discharge below Exhibit-5, dated 24/04/2025 in Sessions Case No. 68/2022.

4. The brief facts which are necessary for disposal of the revision application are as under:

The applicant/accused claimed that she is being prosecuted for the commission of an offence punishable under Sections 370, 374, 344 IPC in connection with Jaripatka Police Station Crime No. 78/2020. After filing of the charge-sheet, she filed an application for discharge on the ground that from the recitals of the statement itself, no offence is made out against her. The statement under Section 164 of Cr.P.C. of the informant does not disclose any act attributed to the accused, which discloses any offence. There is a dispute in respect of the salary of the maidservant. The evidence of all witnesses is hearsay. Hence, the applicant/accused prayed for the discharge.

5. Heard learned counsel for the applicant, who submitted that it is a dispute over salary and no offence under Sections 354 and 370 of the Indian Penal Code is made out. The

statement under Section 164 of Cr.P.C. of the informant shows that the accused has committed the offence. Hence, prayed for discharge of the offence. He invited my attention towards the statement of the victim and submitted that prima-facie case is not made out against the present applicant. The learned Sessions Judge has not considered the same and thereby wrongly rejected the application, in view of that, the revision deserves to be allowed.

6. Learned APP strongly objected the said application on the ground that, at this stage, the appreciation of the evidence is not permissible. What is to be seen is whether there is a prima-facie material sufficient to frame the charge against the accused or not. The statement of the victim and her mother discloses the offence against the present applicant, and therefore, there is sufficient material to frame the charge. The learned trial Court has rightly rejected the application, and no interference is called for.

7. Learned APP further submitted that the statement of the victim and her mother shows that she was wrongly confined and wrongfully restrained by the present applicant in the house,

and even she was not permitted to communicate with her mother, which sufficiently attracts the offence punishable under Section 340 i.e. wrongful confinement. As far as the offence under Section 370 is concerned, the statement of the victim sufficiently shows that for the purpose of exploitation, she was kept at the home, and therefore, the offence is made out against the present applicant. In view of that, the learned trial Court rightly considered the merits of the case and rightly rejected the application.

8. On hearing both sides and on perusal of the investigation papers, it reveals that the crime is registered on the basis of the report lodged by the victim herself, on an allegation that her father died in the year 2004, and the financial condition of her family was not good. Her marriage was performed with one Mohan Yadav, a resident of Billaspur Chhattisgarh. However, he was addicted to bad-vices. She was working in the house of one Makhan Singh and Rana Singh. The present applicant is the daughter of said Makhan Singh and Rana Singh, who brought her at Nagpur to work at her house as a maidservant. When she was residing at the present applicant's house, she was ill-treated by the present applicant. Even she was not permitted to communicate

with her relatives and she was wrongfully kept in the house. She was not permitted to go out from the house also, as well as she was not permitted to communicate with anybody. On the basis of the said report, police have registered the crime against the present applicant. The supplementary statement of the victim was recorded on 16/02/2020, wherein she reiterated the said contentions. The statement of the mother of the victim is also recorded, wherein it was also disclosed that the mother of the victim tried to communicate with her daughter, but the present applicant has not permitted her to communicate, even the address was not given to her, so that she could meet her daughter. Thus, on the basis of the investigation carried out by the investigating agency, the charge-sheet was filed, and thereafter, the applicant filed the application for discharge.

9. Before advertng to the merits of the case it is necessary to see what are the considerations while considering the application for discharge.

10. It is a settled principle of law that at the stage of considering an application for discharge, the court must proceed on the assumption that the material which has been brought on

record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary of the offence alleged.

11. The Hon'ble Apex Court in the case of *State of Gujarat vs. Dilipsinh Kishorsinh Rao, reported in MANU/SC/1113 2023*, advertent to the earlier propositions of law in its earlier decisions in the cases of *State of Tamil Nadu vs. N.Suresh Rajan and ors, reported in (2014) 11 SCC 709* and *The State of Maharashtra vs. Som Nath Thapa, reported in (1996) 4 SCC 659*, and *The State of MP Vs. Mohan Lal Soni, reported in (2000) 6 SCC 338*, has held as under:

“10. It is settled principle of law that at the stage of considering an application for discharge the court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged. This Court in *State of Tamil Nadu vs. N.Suresh*

Rajan and ors, (2014) 11 SCC 709 adverting to the earlier propositions of law laid down on this subject has held:

"29. We have bestowed our consideration to the rival submissions and the submissions made by Mr. Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the

matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

12. Thus, the defence of the accused is not to be looked into at this stage when the application is filed for discharge. The expression "the record of the case" used in Section 227 of the Code of Criminal Procedure is to be understood as the documents and materials, if any, produced by the prosecution. The provisions of the Code of Criminal Procedure does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the

material produced by the investigating agency. 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. At the stage of entertaining the application for discharge under Section 227 of the Code of Criminal Procedure, the court cannot analyze or direct the evidence of the prosecution and defence or the points or possible cross examination of the defence. The case of the prosecution is to be accepted as it is.

13. In the case of *Union of India vs. Prafulla Kumar Samal and anr, reported in (1973)3 SCC 4*, the Hon'ble Apex Court considered the scope of Section 227 of the Code of Criminal Procedure. After adverting to the various decisions, the Hon'ble Apex Court has enumerated the following principles:

- “(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.”

14. Thus, it is well settled that at the time of considering the discharge application, the defence of the accused is not to be looked into, what is to be looked into is whether the material is sufficient to frame the charge. It is also not required to re-appreciate the evidence, even strong suspicion is sufficient to frame the charge.

15. On perusal of the material collected during the investigation and on weighing and sifting the evidence which is collected there is sufficient material to frame the charge as far as Section 340 and 374 is concerned. The applicant is also charged for the offence punishable under Section 370 of IPC. As far as the ingredient of Section 370 of IPC, which deals with trafficking of a persons. The Section 370 states, whoever, for the purpose of exploitation, recruits, transports, harbours, transfers, or receives,

a person or persons, using threats, using force, or any other form of coercion, or by abduction, or by practicing fraud, or deception, or by abuse of power, or by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

16. Thus, trafficking is the offence when it is committed by using threats and by recruiting or transporting or harboring any persons for the purpose of exploitation by way of coercion and by using force. As far as the statement of the victim is concerned, initially she has joined the work at the house of the present applicant without any course. Her statement nowhere discloses that any force was used on her and she was brought at the house of the present applicant by using the said force. Therefore, the ingredient of the offence under Section 370 are not attracted. Therefore, only the ingredients of the offence punishable under Section 370 are not attracted and therefore, the applicant has made out a case to discharge only for the offence punishable under Section 370. As far as the offence under Section 340 and 374 are

concerned, there is sufficient material to frame the charge against the accused.

17. Moreover, after weighing and sifting the evidence, which is collected during the investigation, except the offence punishable under section 370, the other two offences are made out and there is sufficient material to frame the charge under Sections 340 and 374, therefore the prayer of the present applicant for discharging her from the said offence deserves to be rejected. As far as the offence under Section 370 is concerned, which is not made out on the basis of the investigation material, and therefore, the applicant deserves to be discharged under Section 370 of IPC. In view of that, I proceed to pass following order.

ORDER

- a] Criminal Revision Application is **allowed partly**.
- b] The applicant is discharged of the offence punishable under Section 370 of IPC.
- c] The trial Court shall proceed by framing charge against the accused under Sections 340 and 374 of IPC.

[URMILA JOSHI-PHALKE, J.]