

**CRR-631-2018 (O&M)****-1-****109+201****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-631-2018 (O&M)**

Date of Decision:- 14.05.2025

SAUKAT ALI @ SHAUKAT ALI

...Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Anil Kumar Garg, Advocate for petitioner.

Mr. Japjot Singh, AAG, Punjab.

Dr. Anju Sharma, Legal Aid Counsel for respondent No.2.

AMARJOT BHATTI, J. (Oral)**CRM-18052-2025**

Complainant/respondent No.2 has filed an application for placing on record copy of application for enquiry dated 02.09.2016, ii) copy of statement of Nusrat Begum dated 15.02.2017, iii) copy of enquiry report dated 17.03.2017, iv) enquiry report sent by DSP to SSP, Kapurthala, v) statement of Veena Sharma CW1 dated 08.06.2015, vi) statement of HC Bidhi Chand No.689/Kpt. Dated 13.07.2015, as Annexures A-1 to A-6.

For the reasons mentioned in the application, same is allowed and accompanied documents are taken on record as Annexure A-1 to A-6, subject to just exceptions.

**Main case.**

1. Petitioner Saukat Ali @ Shaukat Ali has filed revision against impugned order dated 08.01.2018 (Annexure P-7) vide which learned trial Court has wrongly framed chargesheet against petitioner under Sections 376 and 506 of IPC.

2. Brief facts of case are, prosecutrix 'VS' filed written complaint dated 13.03.2015 (Annexure P-3) to SSP, Kapurthala alleging that she is a married lady having a son and daughter residing in foreign country. She was running a boutique at House No.174/12, Mohalla Kasaba, Kapurthala. She was not on talking terms with her husband who was residing on the first floor of her boutique except preparing food for him. She had no relationship with him. For the last 7-8 years, she was in contact with Saukat Ali who was working in Heritage Cultural Museum. He used to say that he would solve her problem with his magic. She started visiting his house. He also told her to prepare food for him as he was living alone. She prepared food for him for the last 7-8 years. In lieu of this, he used to give some money and deposited some money in her account. He won her trust and took Rs.5 lakhs from her and furnished affidavit in her favour attested from Suvidha Centre on 06.06.2012. When she asked him to return her money, he refused. She served a notice to him where he denied his liability and alleged that the same were forged documents. On 12.03.2015 at 7/7.30 pm, she went to meet him at Vaddi Masjid, Kapurthala to enquire about the alleged forged documents. She went to his room and he bolted the room and committed forcible rape with her against her wishes. On raising hue and cry, Sukhwinder Singh @ Sodi reached there and saved her from the clutches of accused. Said accused



cheated her and also committed forcible rape. With these allegations, matter was enquired and FIR was registered.

3. Learned counsel for petitioner argued that from the facts of the case, no offence under Sections 376 and 506 of IPC is made out. Now it is well settled that sexual intercourse on the alleged pretext of marriage does not constitute rape. On this point, learned counsel for petitioner has relied upon the judgment of **Hon'ble Supreme Court of India** case titled as ***Sonu @ Subhash Kumar Vs. State of Uttar Pradesh and Anr. 2021 (2) R.C.R. (Criminal) 269*** where in a petition for quashing of FIR under Section 376 IPC in para No.11 it was observed as under:-

“Bearing in mind the tests which have been enunciated in the above decision, we are of the view that even assuming that all the allegations in the FIR are correct for the purposes of considering the application for quashing under section 482 of CrPC, 1973 no offence has been established. There is no allegation to the effect that the promise to marry given to the second respondent was false at the inception. On the contrary, it would appear from the contents of the FIR that there was a subsequent refusal on the part of the appellant to marry the second respondent which gave rise to the registration of the FIR. On these facts, we are of the view that the High Court was in error in declining to entertain the petition under section 482 of CrPC, 1973 on the basis that it was only the evidence at trial which would lead to a determination as to whether an offence was established”.

On this point, learned counsel for petitioner also relied upon other judgment of Hon'ble Supreme Court of India case titled ***Shambhu Kharwar Vs. State of Uttar Pradesh and Another 2022 (4) RCR (Criminal) 493*** and ***Prashant Bharti Vs. State of NCT of Delhi 2013 (3) R.C.R.***



(Criminal) 399.

It is pointed out that chargesheet has been framed in a casual manner. Petitioner is working as Maulvi at Vaadi Masjid, Kapurthala since long. She became familiar with his family and also visited Malerkotla to meet his family members. Since she was in need of money for settling her children, he gave her two blank cheques as surety to be given to a financier. She misused one of the cheque and filed complaint under Section 138 of NI Act (Annexure P-4). Petitioner had given one affidavit dated 06.06.2012 to settle the matter in controversy which is Annexure P-1. He had returned huge amount by way of cheque and bank receipts which are Annexure P-2 (colly). In order to grab more money from the petitioner, false complaint was filed against him to SSP, Kapurthala (Annexure P-3). Matter was thoroughly enquired by DSP and recommended to dismiss the complaint being false. Said inquiry report is Annexure P-5. On the pressure of local police, FIR was registered and challan (Annexure P-6) has been presented. Complainant is a married lady having two grown up children. Her husband is alive. He is also having a family. There was no reason for petitioner to develop physical relations with her on the pretext of marriage. Chargesheet has been framed without applying judicious mind and without looking into the legal aspect of the case. It is submitted that impugned order dated 08.01.2018 may kindly be set aside and the petitioner may be discharged by accepting present revision.

4. Learned counsel representing State assisted by learned counsel representing respondent No.2 opposed present criminal revision on the ground that initially the complainant came in contact with petitioner and



used to cook food for him. He assured to solve all her family problems. Thereafter, petitioner maintained physical relations with the respondent No.2/prosecutrix on false pretext of marriage and continuously exploited her for long years. Later, he changed his mind, as a result she filed complaint against him. Matter was enquired by the police. Thereafter, FIR was registered. Challan was presented and finding prima facie case, impugned order dated 08.01.2018 was passed framing chargesheet against petitioner under Sections 376/506 of IPC. It is pointed out that stand taken by the petitioner is without any basis. Regarding complaint filed by the prosecutrix/respondent No.2 under Section 138 of NI Act, it is pointed out that he was convicted in the said complaint vide judgment dated 02.08.2018 passed by learned Judicial Magistrate 1st Class, Kapurthala which is Annexure R-2/T. Stand taken by the petitioner is without any basis. Present revision has been filed only to delay the proceedings of the trial.

5. I have considered the arguments and have gone through the record. In the case in hand, petitioner has filed criminal revision against impugned order dated 08.01.2018 passed by learned Additional Sessions Judge, Kapurthala for framing charges against petitioner under Sections 376 and 506 of IPC. For the purpose of framing of charges against the accused only prima facie case is to be seen. In this regard, gainful reference can be made to the judgment of *Hon'ble Apex Court* in case titled *State by the Inspector of Police, Chennai Vs. S. Selvi and another* Law Finder Doc Id # 947956, 2018 (1) RCR (Criminal) 625 and in para No.8 it was observed as under:-

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It would be difficult to lay down the rule of universal application as to how the prima facie case should be determined. Though the Judge has got power to sift and weigh the evidence, such sifting and weighing evidence is for the limited purpose of finding out whether or not a prima facie case against the accused has been made out for framing of charge. The test to determine a prima facie case would naturally depend upon the facts of each case. At this preliminary stage, the High Court was not justified in concluding that the accused is entitled for discharge merely on the ground of discrepancy in the timings of the incident. The question as to whether respondent no.1 was present on the place of incident or not during the relevant point of time or she had been in Calcutta as sought to be argued before this Court is a matter of proof. Such fact needs to be gone into by the trial Court after recording the evidence.”

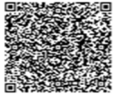
There is another judgment of Madhya Pradesh High Court in **Criminal Revision No.4468 of 2018 decided on 28.11.2023** titled as ***Juned Vs. State of Madhya Pradesh Station House Officer and Ors.*** where it was observed as under:-

“In view of the aforesaid prepositions, the learned trial Court, while framing of charges, must apply its judicial mind on the material placed on record and must be satisfied and there is strong possibility subsist that the accused has committed the offence. At the juncture of framing of charges, the Court has to prima facie examine whether there is sufficient ground for proceeding against the accused. Nevertheless, the Court is not expected to evaluate or analyse the findings in order to arrive at the conclusion that the material furnished by the prosecution are sufficient to convict the accused or not? In the case at hand, the findings of learned trial Court regarding prima facie case against the accused persons appear to be infallible.”



Present FIR has been registered on the complaint of prosecutrix/respondent No.2 and as per record challan has been presented for the offence under Sections 376/506 IPC (Annexure P-6). Counsel for petitioner as well as counsel representing respondent No.2 have referred to the number of complaints filed by them against each other. Even wife of the petitioner filed complaints against respondent No.2. Learned counsel for petitioner is also relying upon one inquiry report submitted to SSP Kapurthala (Annexure P-5). Said applications filed against each other as well as inquiry report conducted from time to time are relevant only during the investigation of the case. Thereafter, the investigating agency considering the facts preferred to present challan. The trial Court is required to consider the record available before the Court and in case prima facie case is made out, the chargesheet is framed. In the case in hand, trial Court from the facts narrated by the respondent/prosecutrix chargesheet has been framed vide impugned order dated 08.01.2018 (Annexure P-7) and accordingly chargesheet has been framed. Stand taken by the petitioner is part of his defence which cannot be considered at the time of framing of chargesheet. Counsel for petitioner has tried to intermingle the facts regarding the issuance of cheque on the basis of which complaint was filed under Section 138 of NI Act. It is rightly pointed out by learned counsel representing respondent No.2/prosecutrix that present petitioner was convicted in the said complaint vide judgment dated 02.08.2018 (Annexure R2/2).

6. Therefore, considering the aforesaid factual position, I do not find any illegality or irregularity committed by the trial Court in framing of chargesheet against petitioner, thus, findings no merits in the revision filed



by the petitioner, same is declined.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

14.05.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No.
Whether reportable:	Yes/No