



2025:DHC:1389



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

% **Date of order: 20th February, 2025**

+ **CRL.REV.P. 138/2023 & CRL.M.A. 4503/2023**

SAHAB SINGH

.....Petitioners

Through: **Mr. Amit Kumar and Mr. Jitender
Kumar, Advocates**

versus

STATE OF NCT OF DELHI AND ANR.Respondents

Through: **Ms. Priyanka Dalal, APP for State
with SI Deepak, P.S. Mundka
Mr. Peeyoosh Kalra and Mr.
Yashwant Singh Baghel, Advocates
for Amicus Curiae**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Sections 397/401 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C.") read with Section 482 of the Cr.P.C. (now under Section 438 read with Sections 442 and 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) has been filed on behalf of the petitioners seeking setting aside of the impugned order dated 27th October, 2022, passed by the learned Additional Sessions Judge (FTSC) RC-01, West District, Tis Hazari Court (hereinafter "ASJ") in SC No. 337/22, arising out of FIR No. 292/2022, dated 27th January, 2022, registered at Police Station - Mundka,

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Delhi.

2. The brief facts of the case are that the petitioner no. 1 is a contractor, under whom the prosecutrix was working as a laborer. It is alleged that the prosecutrix was in a relationship with the petitioner no.1 who had assured her that he would marry her and take care of her as well as her children. Based on the said assurance, the prosecutrix stated that she consented to enter in a physical relationship with him.

3. It is further alleged that the petitioner no. 1 continued to be in relationship with the prosecutrix for seven years and also took control over the prosecutrix's earnings. However, approximately a month prior to the filing of the complaint, the petitioner no. 1 allegedly left for his village without informing the prosecutrix, and later refused to return and continue the relationship with the prosecutrix.

4. The prosecutrix alleged that when she asked about her savings from the petitioner no. 1 then he denied any financial obligation towards her and refused to marry her. It is further stated that when she reached out to petitioner no. 2, i.e., the brother of petitioner no. 1, he threatened her over the phone and warned her not to approach their family or she will face consequences.

5. Based on the aforesaid allegations, the instant FIR was registered, investigation was conducted and the chargesheet was filed against the petitioners.

6. Thereafter, the learned ASJ framed charges under Sections 376(2)(n)/506/34 of the Indian Penal Code, 1860 (hereinafter "IPC") against



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the petitioner no. 1 and under Sections 506/34 of the IPC against the petitioner no. 2 vide the impugned order dated 27th October, 2022.

7. Aggrieved by the impugned order dated 27th October, 2022, the petitioners herein have filed the instant petition seeking setting aside of the same.

8. Learned counsel appearing on behalf of the petitioners submitted that the learned ASJ erred in framing charges against the petitioners for the offences punishable under Sections 376(2)(n)/506/34 of the IPC. It is submitted that the learned ASJ failed to properly consider the material on record, including the contents of the FIR and the prosecutrix's statement recorded under Section 164 Cr.P.C. and upon a plain reading of the said statement, no *prima facie* case is made out against the petitioner no. 1 under Section 376(2)(n)/506/34 of the IPC or against the petitioner no. 2 under Sections 506/34 of the IPC.

9. It is further submitted that the relationship between the petitioner no. 1 and the prosecutrix was entirely consensual. The prosecutrix was a married woman with three children and as she had not obtained a divorce, thus, she could not have legally married the petitioner no. 1. Therefore, it is submitted that this relationship could not have been based on a false promise of marriage as falsely alleged by the prosecutrix.

10. In support of his arguments, learned counsel relied on *Naim Ahamed vs. State (NCT of Delhi)*, (2023 (15) SCC 385) submitting to the effect that the said judgment lays down certain standards for the constitution of offence under the alleged offences and the same is not getting satisfied by the



allegations in the FIR as well as the statement made by the prosecutrix.

11. In view of the foregoing, it is prayed that the instant petition may be allowed.

12. *Per contra*, learned APP appearing on behalf of the State vehemently opposed the instant petition and submitted that there is limited scope of interference in the order passed by the Subordinate Court while exercising revisional jurisdiction.

13. It is submitted that the learned Trial Court has rightly framed the charges against the petitioners based on the material available on record. It is also submitted that the prosecutrix is a poor woman working as a laborer under the petitioner no. 1, who was her contractor who induced her into a relationship based on a false promise of marriage and an assurance that she would be taken care of along with her children. However, after several years of cohabitation, petitioner no. 1 abandoned her.

14. It is further submitted that the petitioner no. 1 not only refused to marry the prosecutrix but also allegedly misappropriated her earnings and, when she confronted, his brother (petitioner no. 2) threatened her with dire consequences.

15. It is submitted that at the stage of framing of charges, a court is only required to ascertain whether a *prima facie* case exists, and a deeper analysis of evidence is not warranted. The revisional jurisdiction of this Court is limited to identifying legal errors or jurisdictional irregularities. In the present case, the learned ASJ has correctly adjudicated the said matter and there is no patent illegality or jurisdictional error that warrants interference



by this Court.

16. Heard learned counsel for the parties and perused the record.

17. It is clear that the question of exercise of the Court's inherent powers under Section 482 of the Cr.P.C to quash criminal proceedings would depend on the facts and circumstances of each case. However, while deciding this question, the Court does not need to determine the genuineness of the evidence placed before it. The Court's exercise is merely limited to a determination as to whether the allegations when taken at their face value, disclose the commission of the offence in question. Furthermore, it is also a settled position of law that while exercising revisional jurisdiction, this Court only has to satisfy whether there exists any material irregularity or illegality in the order passed by a Court below, and delving deeper into the merits of the case is impressible considering the limited jurisdiction to interfere.

18. For proper adjudication of the matter at hand, the relevant portion of the FIR and the prosecutrix's statement recorded under Section 164 of the Cr.P.C., are reproduced herein below:

FIR-

"F.I.R. Contents (attach separate sheet, if required) (Contents of FIR)

*To the SHO Sahab, Police Station Mundka, Delhi-110041
Subject: Complaint regarding making physical relation after
allurement and death threats, Sir, It is humbly submitted that I
am Nisha daughter of Change, I am living on rent from last 2
years at puse no. 477, Mundka, Near New Rana Public School,*



Delhi-41. I got married to Mr. Rizwan before 13 years back but I could not cope with him and I started living separately from him. I work as a labour/beldar. I used to work as a beldar under contractor Sahab Singh S/o Raghuveer R/o Samaspur, Danda, Dausa, Mahwa, Rajasthan-322240 (Mobile No. 9599829027). He started living in my room with me and my 31 daughters. Sahab Singh trapped me by making false promises and promised me that he would take care of me and my children and promised me that he will give me the status of Wife and keep my children like his children, as I was a single woman and I needed support, because of which I believed it. He has been making physical relationship with me for the last 7 years and Sahab Singh used to keep the money that I used to earn from beldari. All my savings of the last 7 years, which amounts to about Rs 3 lakh, are deposited with Saheb Singh. But last 1 month ago Sahab went to his village without telling me, on which I called him and asked where he is, then he told that he has come to his home and he told me that now he will not come to me nor he will have any relation with me. Sir, when called Saheb Singh's brother Malkhan on his phone no. 9587127040 and told all the above things, then Malkhan Singh threatened me that if, I or my brother being called again or come to our house in Rajasthan, then I and my brother together will do wrong to you and after killing you would bury here and no one will be able to harm us. For the last 7 years till now Saheb Singh made physical relations with me by making false promises and giving false assurances to me and also ran away with my earned balldari money. For which I also have witnesses which I can present before you when the time comes, Saheb Singh also threatens me that he will get me killed by some other person in Delhi itself, so it is better that I leave him. Therefore, I request you to please kindly help me and please take appropriate action against Saheb Singh and please protect my life and property from him. You will be greatly blessed. Thank you Applicant SD Hindi Nisha daughter Chagge House



no. 477, Mundka, Near New Rana Public School, Delhi-110041 Mo. 8585992545 Duty officer, PS Mundka it is stated that dated 27/01/22 on written complaint of MS. Nisha D/o Sh. Chhange R/O H.No. 477, Near New Rana Public School, Mundka was Marked to me Wherein Companion Stated That she has been Sexually Assaulted and threatened by Sahab Singh Slo Raghuvir Rio Samashpur, Dhand, Dhosa, Mehva, Rajasthan. After obtaining the permission from senior officers the complainant along with Ct. Neetu has been sent to SGM Hospital Mangolpuri for Medical Examination from the content of complainant a case U/s 376/506 IPC is made out. Hence a case Uis 376/506 IPC to be Registered and Investigation of the case to be handed over to me. Note time of occurrence-Not known Place of occurrence- H. No-477, Near New Rana Public school, Mundka Note and time of producing articles-27/01/22 SD English SI Manisha D-6305 PIS No-16190180 Noted-27/01/22 POLICE STATION PROCEEDINGS W/SI MANISHA NO D6305 presented article as per Hindi written article which on receipt of article filed Case No. 292/2022 U/S 376/506 IPC CCTNS present on DUTY under supervision of DO By getting FEED from OPERATOR to CCTNS, COMPUTER COPY FIR with original article was handed over to W/SI MANISHA NO-06305 Those who will Implement further action and other duplicate copy or will be sent by post to senior higher officials. SUBMITTED BY DO... Request in public Interest, "Use mask and sanitizer to prevent COVID 19. Maintain social distance and keep washing hands with soap at regular intervals". "Remember, until there is no medicine, there is no laxity, two yards distance mask is necessary."

Statement of victim under Section 164 of Cr.P.C. -

"Statement of Victim namely "N" in FIR 292/2022 PS Mundka U/S 376/506 IPC



On Oath,

Sahab Singh used to live with me for 7 years. He gave me status of Wife. I used to work for him. He was contractor. I was given only food expanses. Whatever saving, he used to keep that. I used to earn Rs. 450/- per day. He vanished one month back. I called him over phone but he did not pick up my call. Again I called him 10 to 15 days later then he picked my call. I asked when will you come here, he said now he will never come. Then I said clear my seven years account, whatever is that, gave the same to me. Then he said how much is that, I said to him, 3 lakh after adding all my earning, give that to me. He replied neither he had any money of mine nor he would marry me and he hanged up the call. After 2 to 4 days, I called him again. Again, he did not pick up my call.

I called his brother and said either pay my money or sent Sahab Singh to me otherwise I will come to your home. He said if you were come to our home you would be beaten and both brother would humiliate you and would bury somewhere after killing you, nothing would know.

I have three daughters, all minor, I want justice.”

19. Upon consideration of the material on record, this Court finds that sufficient material exists to constitute a *prima facie* case against the petitioners and to justify the framing of charges.

20. It is evident from the FIR and the prosecutrix's statement that the accused petitioner no. 1 exerted influence over the prosecutrix by promising marriage and financial security, leading her to enter into a relationship. Additionally, allegations of financial exploitation and threats made by the petitioner no. 2 have been clearly stated in the FIR and the statement



recorded under Section 164 Cr.P.C, which has been appropriately examined by the learned ASJ while passing the impugned order.

21. The fact that the prosecutrix was married does not automatically negate her claim of inducement by the petitioner no. 1. The Hon'ble Supreme Court has repeatedly held that a promise to marry made without intention to fulfill it, vitiates the consent under Section 375 of the IPC. In the case of ***Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 SCC 608***, the Hon'ble Supreme Court clarified the position of law on consent under "misconception of fact" in case of an offence committed under Section 375 of the IPC which involves a false promise to marry and the relevant portion of the same is produced as under:

"14. In the present case, the "misconception of fact" alleged by the complainant is the appellant's promise to marry her. Specifically in the context of a promise to marry, this Court has observed that there is a distinction between a false promise given on the understanding by the maker that it will be broken, and the breach of a promise which is made in good faith but subsequently not fulfilled. In Anurag Soni v. State of Chhattisgarh [Anurag Soni v. State of Chhattisgarh, (2019) 13 SCC 1 : 2019 SCC OnLine SC 509] , this Court held : (SCC para 12)

"12. The sum and substance of the aforesaid decisions would be that if it is established and proved that from the inception the accused who gave the promise to the prosecutrix to marry, did not have any intention to marry and the prosecutrix gave the consent for sexual intercourse on such an assurance by the accused that he would marry her, such a consent can be said to be a consent obtained on a misconception of fact as per Section



90 IPC and, in such a case, such a consent would not excuse the offender and such an offender can be said to have committed the rape as defined under Sections 375 IPC and can be convicted for the offence under Section 376 IPC.”

22. It is clear from the perusal of the above judgment that if the consent of a woman for engaging in sexual acts with her is obtained by promising to marry her, without having the intention to do the same, the said consent is said to be vitiated as it is obtained by deceiving the said woman and would amount to consent under misconception of fact, thus, constituting the offence.

23. In the present case, the question of whether the promise was false from inception is a matter for trial and cannot be conclusively determined at the stage of framing of charges in terms of the settled law as per which at the stage of framing of charges, the Court is required to assess whether a *prima facie* case is made out against the accused. It is also well established that a the Court need not conduct a detailed evaluation of evidence but only determine whether the material, if accepted as true, discloses the commission of an offence.

24. A perusal of the FIR and the prosecutrix's statement under Section 164 of the Cr.P.C. indicates that the petitioner no. 1 allegedly induced the prosecutrix into a physical relationship on the false promise of marriage and later refused to marry her, accompanied by alleged threats. It is no doubt that the prosecutrix is a married woman but it is clearly contended in the FIR that she has left her husband and doing *beldari* with the petitioner no. 1 who is a



contractor. The allegations, if taken at face value, are sufficient to constitute a *prima facie* case under Section 376 of the IPC, warranting trial. Further, the alleged threats by petitioner no. 2, as recorded in the FIR and the prosecutrix's statement, justify the framing of charges under Sections 506/34 of the IPC.

25. In view of the aforesaid discussions on facts and law, it is held that the learned ASJ rightly has considered the material on record and concluded that sufficient grounds exist for framing of charges against the petitioners. Therefore, given the limited scope of revisional jurisdiction, this Court finds no illegality or jurisdictional error in the impugned order warranting any interference.

26. Taking into consideration the observations made herein above, impugned order dated 27th October, 2022, passed by the learned Additional Sessions Judge (FTSC) RC-01, West District, Tis Hazari Court (hereinafter "ASJ") in SC No. 337/22, arising out of FIR No. 292/2022, dated 27th January, 2022, registered at Police Station - Mundka, Delhi is, hereby, upheld.

27. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

28. Accordingly, the instant revision petition is dismissed along with the pending application(s), if any.



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29. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

FEBRUARY 20, 2025

gs/anr/mk

Click here to check corrigendum, if any

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