



2025:DHC:11561



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: December 16th, 2025

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CRL.REV.P. 187/2023 & CRL.M.A. 4674/2023**RAHUL KUMAR AND ANR.**

.....Petitioners

Through: Mr. Ashish Mundhare,
Advocate.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Udit, PS Ranhola.
Mr. Binod K. Aggarwal,
Advocate for complainant
(through VC).**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition has been filed under section 397 of the Code of Criminal Procedure, 1973, ('CrPC') assailing of the order dated 10.11.2022 ('**impugned order**'), passed by the learned Additional Sessions Judge ('ASJ'), whereby charges for the offences under sections 498A/304B/34 of the Indian Penal Code, 1860 ('IPC'), have been framed against the Petitioners herein and accused Vipin@Chuha.

2. The Petitioner No. 1/ Sh. Rahul and Petitioner No. 2/Smt. Mithlesh are the brother-in-law and sister, respectively, of the husband of the deceased/victim namely Vipin @Chuha.

3. Succinctly stated, the FIR no. 102/2020 dated 13.02.2020

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was registered at Police Station Ranhola, at the behest of the father of the victim alleging that the deceased/victim-Smt. Jyoti was married to the accused/Vipin on 29.04.2018 and in their marriage the father had given his daughter gold ornaments, cash, kitchen appliances and furniture as dowry articles. It is alleged that after one month of their marriage, the family members of the accused started quarrelling with her and due to the same, the accused and the victim shifted to a rented accommodation. It is further alleged that the husband/Vipin was a habitual drinker, never had a fixed source of employment and used to harass his daughter. Allegedly, the Petitioners and Vipin, started pressurizing her to repay some loan they had taken. It is further alleged that the father of the victim had given money i.e. Rs. 16,000/- and Rs. 15,000/- in cash, to Vipin on two occasions. He further alleged that a night before, around 9 pm the victim came to her father's house, took keys of her house and left. At around 1:30 am, the brother of the victim received a call from the victim's landlord and after reaching the rented accommodation, the victim was found hanging from the ceiling fan with green coloured chunni, the door was bolted from inside and the window had to be broken to unlock the door. It is further alleged by the father that he has suspicion upon his son-in-law.

4. Thereafter statement of family members of deceased i.e. father/Shri Kishan, mother/Laxmi Devi and brother/Shiv Kumar were recorded.

5. The chargesheet in the present case was filed on 09.10.2020, in which Vipin was chargesheeted under section





304B/498A/34 of the IPC, while the Petitioners were chargesheeted without arrest under Section 498A/34 of the IPC.

6. *Vide* the impugned order, the learned ASJ framed charges against the Petitioners for the offences punishable under Sections 498A/304B/34 of the IPC, observing that a *prima facie* case was made out against the accused persons.

7. Aggrieved the present petition has been filed, assailing the above-mentioned order.

8. Learned Counsel for the Petitioner submits that the impugned order on charge is liable to be set aside as the complaint, lodged by the father of the deceased, is bereft of any specific allegations of “*dowry demand*” by the Petitioners and only makes a casual reference to the Petitioners regarding repayment of a loan. Such allegations cannot qualify as “*dowry demand*” in any case.

9. He further submits that the Petitioners were never part of matrimonial home of the deceased and her husband, since their home was around 7 km away from their home. Despite these facts and circumstances, charges against the Petitioners have been framed, which are assailed herein.

10. *Per Contra*, the learned Counsels for the Respondents have vehemently opposed the petition and submit that the order is well-reasoned and merits no interference.

Analysis

11. At the outset, it will be apposite to succinctly discuss the statutory law with respect to framing of charge and discharge as provided under Section 227 and 228 of the CrPC. The same is set



out below:

“227. Discharge If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of Charge

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, 1 [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

12. The Hon’ble Apex Court, in the case of **Sajjan Kumar v. CBI : (2010) 9 SCC 368**, has culled out the following principles in respect of the scope of Sections 227 and 228 of the CrPC while observing that a *prima facie* case would depend on the facts and circumstances of each case. The relevant paragraphs read as under:

“21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC 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. The test to determine *prima facie* case would depend upon the facts of each case.

(ii) 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.

(iii) **The court cannot act merely as a post office or a mouthpiece 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, etc.** However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) **At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.**

(vii) **If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.**

(emphasis supplied)

13. The Hon'ble Apex Court in the case of ***State of Gujarat v. Dilipsinh Kishorsinh Rao*** : 2023 SCC OnLine SC 1294, has discussed the parameters that would be appropriate to keep in mind at the stage of framing of charge/discharge, as under:



“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

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12. 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. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.”

(emphasis supplied)

14. It is pertinent to note that the Court, at the stage of framing of charge, is to evaluate the material only for the purpose of finding out if the facts constitute the alleged offence, given the ingredients of the offence. If the allegations give rise to only a



mere or remote suspicion, or two views are possible, the accused would be entitled to discharge.

15. Keeping the aforesaid principles in mind, this Court proceeds to examine whether the essential ingredients of the offences under Sections 304B and 498A of the IPC are *prima facie* made out against the Petitioners.

16. Section 304B of the IPC read as under: -

“304B. Dowry death.—(1) *Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.*

Explanation.—For the purposes of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”

17. Section 498A of the IPC reads as under: -

‘498A. Husband or relative of husband of a woman subjecting her to cruelty.—*Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

Explanation.—For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property



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or valuable security or is on account of failure by her or any person related to her to meet such demand.”

18. A bare perusal of the above demonstrates that for invoking the provision of Section 304B of the IPC, it must *prima facie* be established that, *firstly* the death of a woman was caused by burns or bodily injury or occurred otherwise than under normal circumstances; *Secondly*, that such death occurred within seven years of her marriage; *thirdly*, that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of her husband; and *lastly*, such cruelty or harassment was for, or in connection with, any demand for dowry.

19. The expression “*dowry*” has to be understood in the light of Section 2 of the Dowry Prohibition Act, 1961, which contemplates a demand for property or valuable security having a nexus with the marriage.

20. To prove the offence under Section 498A of the IPC it must be established that the alleged acts constitute harassment or cruelty within the meaning of the Explanation to Section 498A IPC and such harassment was wilful and coercive in nature, and not a mere demand or expectation. Further, the proximate and active role of the accused sought to be prosecuted and in case of relatives other than the husband, specific and distinct allegations showing their participation in the alleged acts of cruelty must also be established.

21. In the present case, insofar as the Petitioners are concerned, a careful perusal of the contents of the FIR, the



statements of all the family members under Section 161 CrPC and the charge-sheet, reveals that there is no specific allegation of any demand for dowry made by either of the Petitioners and the main allegations are only *qua* the husband/Vipin.

22. It has been alleged that “*the sister-in-law of my daughter Mithilesh and her husband as well as my son-in-law used to trouble her for loan taken for the purpose of her marriage as a reason for which my daughter was unhappy.*” Hence, the only vague allegation remotely touching upon the Petitioners is that they were pressurising the deceased to repay a loan. The allegations are general and bereft of particulars as to time, place, amount, source and manner. Even otherwise, a demand for repayment of a loan or for financial assistance does not *ipso facto* constitute a “*dowry demand*”.

23. Further, the material on record is also conspicuously silent as regards any specific act of cruelty or harassment attributable to the Petitioners in proximity to the death of the deceased. The complaint and the statements recorded under Section 161 CrPC do not attribute any specific instance of wilful conduct to the Petitioners which could be said to be of such gravity as to drive the deceased to commit suicide or to cause grave injury to her life, limb or mental health.

24. Pertinently, the Petitioners were not even residing with the deceased or exercising any dominion or control over her matrimonial life. In the absence of proximate and specific allegations, the implication of relatives living separately, on the basis of sweeping statements, does not satisfy the threshold



required for framing a charge in the present case.

25. This Court is mindful of the social object sought to be achieved by the provisions relating to dowry deaths and cruelty. However, the salutary object of the law cannot be permitted to be diluted by allowing prosecution to continue on the basis of vague, generalised and non-specific allegations, which do not satisfy the basic ingredients of the offences alleged. In the absence of any specifics, the Petitioners are only left to prove the negative. The lack of specificity, in the opinion of this Court, not only violates procedural fairness but also goes against the Petitioners right to a fair trial.

26. Hence, subjecting the Petitioners to the rigours of a full-fledged trial in such circumstances would be an abuse of the process of law and cause unwarranted prejudice.

27. In the considered opinion of this Court, the material on record, even if taken at its face value, does not give rise to a grave suspicion against the Petitioners for the commission of offences under Sections 304B or 498A of the IPC. At best, the allegations raise a mere suspicion, which is insufficient to compel the Petitioners to undergo the rigours of a criminal trial.

28. The learned ASJ, while framing charges against the Petitioners has failed to appreciate the absence of foundational facts constituting the essential ingredients of the said offences *qua* the Petitioners.

29. In view of the foregoing discussion, this Court is of the considered view that the impugned order, insofar as it frames charges against the Petitioners under Sections 498A/304B/34



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IPC, cannot be sustained and is thus, set aside. The Petitioners are discharged from the charged offences.

30. It is clarified that the observations made herein are confined to the adjudication of the present revision petition and shall not be construed as an expression on the merits of the case against the remaining accused.

31. The petition and the pending application(s), if any, are disposed of in the above terms.

AMIT MAHAJAN, J

DECEMBER 16, 2025

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