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

+ **CRL.REV.P. 343/2023 & CRL.M.A. 8417/2023**

ABHISHEK JAIN & ORS.Petitioners
Through: Mr. Vishesh Wadhwa, Ms.
Swadha Gupta and Ms.
Shubhangi Singh, Advs.

versus

STATE AND ANR.Respondents
Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Rajnandini, PS-Hauz Qazi.
Mr. Rachit Gupta, Adv.
for the prosecutrix
(through VC)
Prosecutrix in person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
15.10.2025

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1. The present petition is filed against the order dated 03.12.2022 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('ASJ'), Tis Hazari Courts, Delhi in Case No. 213/2022 arising out of FIR No. 287/2021 ('**FIR**') registered at Police Station Hauz Qazi for the offences under Sections 376/506/34 of the Indian Penal Code, 1860 ('**IPC**').
2. By the impugned order, the learned ASJ framed charges against Petitioner No. 1 for the offences under Sections 376/506 of the IPC and against Petitioner Nos. 2-4 for the offence under Section 506/34 of the IPC.
3. Succinctly stated, the FIR was registered on a complaint



given by the prosecutrix. It is alleged that the prosecutrix is a single mother with a minor son. It is alleged that in the month of January, 2021, Petitioner No. 1 approached the prosecutrix and confessed that he had been in love with her for the past two years. It is alleged that despite the repeated assertions by the prosecutrix that Petitioner No. 1 had no future with her, Petitioner No. 1 assured and insisted her that neither he nor his family members thought that way and ultimately won her trust. It is alleged that thereafter in the month of February, 2021, Petitioner No. 1 established physical relations with the prosecutrix on the false pretext of marrying her.

4. It is alleged that thereafter Petitioner No. 1 did not bring up his proposal to marry the prosecutrix in front of his family members and only insisted that the prosecutrix establish sexual relations with him. It is alleged that thereafter when the prosecutrix refused to enter into any physical relations with Petitioner No. 1 until he discussed the topic of their marriage with his family members, Petitioner No. 1 stopped answering the phone of the prosecutrix. It is alleged that thereafter the prosecutrix made a complaint with the Women Commission and her complaint was sent to Police Station Hauz Qazi. It is alleged that thereafter, one day the petitioners met the prosecutrix and threatened to kill her son and also get her removed from her job should she not withdraw the complaint. It is alleged that Petitioner No. 1 took her signature on an affidavit where the fact of exchange of ₹5 lakhs and the factum of withdrawal of complaint was written.

5. During the course of investigation, the prosecutrix refused



to undergo internal medical examination. In her statement under Section 164 of the Code of Criminal Procedure, 1973, the prosecutrix corroborated the allegations levelled by her in the FIR. She further stated that on 29.08.2021, the petitioners called the prosecutrix near Ashoka Sweets, Sita Ram Bazar and thereafter threatened to kill her son and get her removed from her job should she not withdraw her complaint.

6. After the completion of the investigation, chargesheet was filed before the learned Trial Court under Sections 376/506/34 of the IPC. By the impugned order, the learned ASJ framed charges against Petitioner No. 1 for offences under Sections 376/506 of the IPC and against Petitioner Nos. 2-4 for the offence under Section 506/34 of the IPC. The learned ASJ, while framing charges noted as under:

“Perusal of the record shows that as per prosecutrix, the accused Abhishek had assured to marry her and so she consented for establishing physical relations. There are catena of judgments to the effect that where the prosecutrix is already married with another person, there can be no false promise of marriage.

In the present matter, the prosecutrix is a single mother by her own admission, however, it is not clear whether she is already married or not. Moreover, as per the allegations, the physical relations were made only once and that too, when the prosecutrix was given false assurance of marriage and it was not a long standing relationship. However when the prosecutrix insisted that the accused Abhishek should talk to his family about their marriage and only thereafter, she will agree for physical relations again, the accused stopped talking to her. This itself shows that the sole intention of accused to give the false assurance of marriage to the prosecutrix, was to make physical relations with her and continue doing so. So, when the prosecutrix denied for further physical relationship, he snapped any ties with her. Hence, prima facie offence u/s 376 IPC is made out against the accused Abhishek.

As far as, allegations of threats being given by accused Abhishek and the other co-accused persons is concerned,



there is no evidence except the complaint of prosecutrix and her statement u/s 164 CrPC recorded before Ld. MM. It has to be kept in mind that statement u/s 164 CrPC is recorded on Oath and so the court cannot wish away said statement without any material to suggest otherwise. Further more, the names of all the accused persons is duly mentioned in the police complaint as well as statement u/s 164 CrPC. Hence, offence u/s 506/34 IPC at the stage of charge is also made out against accused Abhishek and other co-accused persons. Accordingly, the accused Abhishek is charged for the offence punishable u/s 376/506 IPC and other co-accused namely Sunil, Sunder Lal @ Pappu, Mamta Jain and Gaurav Rana are charged for the offence punishable u/s 506/34 IPC: to which the accused persons have pleaded not guilty and claimed trial.”

7. The learned counsel for the petitioners has challenged the impugned order essentially on two grounds. He submits that the relationship between the parties is consensual, if at all. He submits that since the prosecutrix was already married and had a minor son, she could not have engaged into any physical relationship with Petitioner No. 1 under any misconception or on the assurance that Petitioner No. 1 would marry her. He consequently submits that the argument of the prosecutrix that she, on one occasion, established physical relations with Petitioner No. 1 on the assurance that he would marry her is without any merit.

8. He further submits that the learned ASJ erred in framing charges against the petitioners under Section 506 of the IPC inasmuch as the allegations are vague in nature and does not *prima facie* show that the petitioners intended to cause alarm so to arouse grave suspicion against the petitioners for the purpose of framing of charge under Section 506 of the IPC.

9. The learned Additional Public Prosecutor for the State submits that the impugned order is reasoned and warrants no



interference by this Court.

10. The learned counsel for the prosecutrix submits that the prosecutrix was in an estranged relationship with her husband and that Petitioner No. 1 established physical relationship with the prosecutrix on the pretext that he would subsequently marry her.

11. At the outset, it is relevant to note that the scope of interference by High Courts while exercising revisional jurisdiction in a challenge to order framing charge is well settled. The power ought to be exercised sparingly, in the interest of justice, so as to not impede the trial unnecessarily.

12. Upon a assessment of the case, the allegations, the material on record and the contentions raised by both the parties, it is evident that the charges framed against the petitioners suffer from manifest deficiencies.

13. Before advertng to examine the facts of the present case, since the petitioners have assailed the impugned order whereby charges were framed against Petitioner No. 1 for offences under Sections 376/506 of the IPC and against Petitioner Nos. 2-4 for the offence under Section 506/34 of the IPC, 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.”

14. 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)

15. 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. Thus, while framing of charges, the Court ought to look at the limited aspect of whether, given the material placed before it, there is grave suspicion against the accused which is not properly explained. Though, for the purpose of conviction, the same must be proved beyond reasonable doubt.

16. It is pertinent to note that the Hon'ble Apex Court in the case of **Prashant Bharti v. State (NCT of Delhi) : (2013) 9 SCC 293** while dealing with an allegation that the prosecutrix was induced to establish physical relationship with the accused on the assurance of marriage when the prosecutrix was already married



had observed as under:

“17. It is relevant to notice, that she had alleged, that she was induced into a physical relationship by Prashant Bharti, on the assurance that he would marry her. Obviously, an inducement for marriage is understandable if the same is made to an unmarried person. The judgment and decree dated 23-9-2008 reveals that the complainant/prosecutrix was married to Lalji Porwal on 14-6-2003. It also reveals that the aforesaid marriage subsisted till 23-9-2008, when the two divorced one another by mutual consent under Section 13-B of the Hindu Marriage Act. In her supplementary statement dated 21-2-2007, the complainant/prosecutrix accused Prashant Bharti of having had physical relations with her on 23-12-2006, 25-12-2006 and 1-1-2007 at his residence, on the basis of a false promise to marry her. It is apparent from irrefutable evidence, that during the dates under reference and for a period of more than one year and eight months thereafter, she had remained married to Lalji Porwal. In such a fact situation, the assertion made by the complainant/prosecutrix, that the appellant-accused had physical relations with her, on the assurance that he would marry her, is per se false and as such, unacceptable. She, more than anybody else, was clearly aware of the fact that she had a subsisting valid marriage with Lalji Porwal. Accordingly, there was no question of anyone being in a position to induce her into a physical relationship under an assurance of marriage. If the judgment and decree dated 23-9-2008 produced before us by the complainant/prosecutrix herself is taken into consideration along with the factual position depicted in the supplementary statement dated 21-2-2007, it would clearly emerge that the complainant/prosecutrix was in a relationship of adultery on 23-12-2006, 25-12-2006 and 1-1-2007 with the appellant-accused, while she was validly married to her previous husband Lalji Porwal. In the aforesaid view of the matter, we are satisfied that the assertion made by the complainant/prosecutrix, that she was induced to a physical relationship by Prashant Bharti, the appellant-accused, on the basis of a promise to marry her, stands irrefutably falsified.”

(emphasis supplied)

17. Similarly, the Hon’ble Apex Court in the case of **Naim Ahamed v. State (NCT of Delhi) : (2023) 15 SCC 385** where the prosecutrix was already married and having three children had observed as under:



“22. In the instant case, the prosecutrix who herself was a married woman having three children, could not be said to have acted under the alleged false promise given by the appellant or under the misconception of fact while giving the consent to have sexual relationship with the appellant. Undisputedly, she continued to have such relationship with him at least for about five years till she gave complaint in the year 2015. Even if the allegations made by her in her deposition before the court, are taken on their face value, then also to construe such allegations as “rape” by the appellant, would be stretching the case too far. The prosecutrix being a married woman and the mother of three children was matured and intelligent enough to understand the significance and the consequences of the moral or immoral quality of act she was consenting to. Even otherwise, if her entire conduct during the course of such relationship with the accused, is closely seen, it appears that she had betrayed her husband and three children by having relationship with the accused, for whom she had developed liking for him. She had gone to stay with him during the subsistence of her marriage with her husband, to live a better life with the accused. Till the time she was impregnated by the accused in the year 2011, and she gave birth to a male child through the loin of the accused, she did not have any complaint against the accused of he having given false promise to marry her or having cheated her. She also visited the native place of the accused in the year 2012 and came to know that he was a married man having children also, still she continued to live with the accused at another premises without any grievance. She even obtained divorce from her husband by mutual consent in 2014, leaving her three children with her husband. It was only in the year 2015 when some disputes must have taken place between them, that she filed the present complaint. The accused in his further statement recorded under Section 313CrPC had stated that she had filed the complaint as he refused to fulfil her demand to pay her huge amount. Thus, having regard to the facts and circumstances of the case, it could not be said by any stretch of imagination that the prosecutrix had given her consent for the sexual relationship with the appellant under the misconception of fact, so as to hold the appellant guilty of having committed rape within the meaning of Section 375IPC.”

18. In the present case, the prosecutrix has not disputed that she was already married at the time when Petitioner No. 1 established physical relations with her. The only ground that has



been raised is that the prosecutrix was in an estranged marriage with her husband at the time when the alleged incident took place and that she was induced by Petitioner No. 1 to establish physical relationship with her on the false pretext of marriage. In terms of the dictum of the Hon'ble Apex Court in ***Prashant Bharti v. State (NCT of Delhi) (supra)***, since the prosecutrix was already married, merely because the marriage was estranged does not suffice to state that she was induced to enter into a sexual relationship with Petitioner No. 1 on the false pretext of marriage. It is also not the case of the prosecutrix that she was unaware of the ramifications or that her marriage with her husband was already subsisting.

19. It is evident that since the prosecutrix was already legally married at the relevant time, the question of her having been induced into a physical relationship by Petitioner No. 1 on the false assurance of marriage does not arise. The prosecutrix was in fact in a relationship of adultery with Petitioner No. 1 while being validly married with her husband. In such circumstances, this Court finds force in the contention of the learned counsel for the petitioners that no grave suspicion arose for framing of charge under Section 376 of the IPC against Petitioner No. 1.

20. Insofar as the framing of charge under Section 506 of the IPC is concerned, it is pertinent to mention that the only allegation levelled against the petitioners is that on 29.08.2021, the petitioners had called the prosecutrix near Ashoka Sweets, Sita Ram Bazar and thereafter threatened to kill her son and get her removed from her job should she not withdraw her complaint.



21. A bare perusal of Section 506 of the IPC makes it clear that before an offence of criminal intimidation is made out, it must be established that an accused had an intention to cause alarm to the complainant. Mere threats given by the accused not with an intention to cause alarm to the complainant would not constitute an offence of criminal intimidation.

22. In the present case, from a perusal of the FIR, it is apparent that the allegations levelled against the petitioners are vague in nature. As per the allegations levelled in the FIR, the petitioners on an unknown date, time and location, approached the prosecutrix and threatened to kill her son and get her removed from her job should she not withdraw the complaint against the petitioners. The said allegations are *per se* generic and do not disclose an intention to cause alarm so as to attract Section 506 of the IPC.

23. In addition to the same, there is also an improvement in the allegations levelled against the petitioners in the statement of the prosecutrix recorded under Section 164 of the CrPC. While the prosecutrix failed to disclose any date or place in which the alleged incident took place in the allegations made in the FIR, in her statement under Section 164 of the CrPC, the prosecutrix stated that on 29.08.2021, the petitioners called the prosecutrix near Ashoka Sweets, Sita Ram Bazar and thereafter threatened to kill her son and get her removed from her job should she not withdraw her complaint. No other evidence has been brought forth to substantiate that the petitioners had threatened to kill the prosecutrix's son and get her removed from her job should she not withdraw her complaint. Thus, in the opinion of this Court, in



the absence of any evidence to corroborate the allegations made against the petitioners coupled with the subsequent improvement in the version of the prosecutrix in her statement under Section 164 of the CrPC, no grave suspicion arises against the petitioners which is not properly explained in order to frame charges under Section 506 of the IPC.

24. In view of the above discussion, the impugned order is set aside and the petitioners are discharged of the charges framed against them.

25. The present petition is allowed in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

OCTOBER 15, 2025

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