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

+ **CRL.REV.P. 670/2019**

MS. NEERU K.S.

.....Petitioner

Through: **Mr. Jayant Mudgal, Advocate**

versus

STATE & ANR.

.....Respondents

Through: **Mr. Hemant Mehla, APP for the State
with SI Udai Singh, PS Saket
Mr. Suroor Mander, Ms. Alice Raj,
Mr. Siddharth Mishra, Advocates for
R-2**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.02.2025

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1. The present revision petition under Section 397/401 of the Code of Criminal Procedure, 1973¹ is directed against the impugned order 13th March, 2019² passed in Crl. Revision No. 493/2018 whereby the Additional Sessions Judge, Saket, South District, New Delhi, has discharged Respondent No.2 in the proceedings emanating from FIR No. 621/2014 dated 23rd August, 2014 registered at P.S. Saket, New Delhi under Sections 354, 506, 509 of the Indian Penal Code, 1860³.
2. Briefly stated the facts leading to the present proceedings are as follows:

¹ "Cr.P.C."

² "Impugned order"

³ "IPC"



2.1. On a complaint made by the Petitioner, an FIR No. 621/2014 under Sections 354, 506, 509 of the IPC was registered.

2.2 The incident in question occurred on 2nd August, 2014. According to the Petitioner, she had highlighted certain irregularities within the hospital where she was employed, which allegedly led to hostility from the management and staff. She claimed that they had threatened to damage her reputation, thereby hindering her future employment prospects.

2.3 The Petitioner specifically alleged that on 2nd August, 2014, Respondent No.2 grabbed her hand, raised his voice, and used inappropriate language. She also noted that although Respondent No.2 had resigned from the hospital, he was later employed at a sister concern in Gurugram.

2.4 During the investigation, witnesses confirmed that Respondent No.2 had raised his hand but denied that he had physically grabbed the Petitioner. Based on these statements, the police concluded that while Respondent No.2 had used unparliamentary language and gestured in an intimidating manner, no direct physical assault had taken place. Consequently, a chargesheet was filed.

2.5 Upon being summoned, Respondent No.2 appeared before the Trial Court. By order dated 7th July, 2018, the Trial Court dismissed his discharge application and deemed it appropriate to frame charges under Sections 354, 506, and 509 of IPC.

2.6 Respondent No. 2 then preferred revision petition against the said order before the Sessions Court, which was then heard and decided through the Impugned order. The relevant portion of the Impugned order reads as follows:

5. *At the stage of framing of charge, the Court it has to satisfy*



itself that there is ground for presuming that the accused has committed the offence for which he is going to be charged. Meticulous analysis of the evidence is not to be done, however, the material on record has to be examined to see whether the ingredients of the offences are present or not. The approach of the Ld. Trial Court which is quoted above is clearly erroneous. It was the duty of the Ld. Trial Court to examine the material on record to come to the conclusion that prima facie the ingredients of the offences for which the revisionist was being charged, were present.

6. The incident had a background. The complainant alleges that the management of the hospital and its employees whose names were mentioned in the complaints were enmical to her because she had pointed out irregularities. Before this court she stated that even at present she is facing difficulty in getting new appointment because of the misinformation being spread by the management. She also stated that the accused/revisionist resigned from the hospital but has been employed again in sister concerned at Gurugram. She admitted that she received the compensation from the management of the hospital.

7. While considering the issue of charge we have to concentrate on the incident which allegedly happened on 01.08.2014 for which the first complaint was submitted on 02.08.2014. There is absolutely no need to get into the other allegations and the counter allegations being made by the parties which are related to the service of the complainant.

8. In the complaint dt. 02.08.2014, the complainant stated that "Atik Gupta instead of looking into the sensitivity of the subject started shouting on me and used loose language. He shouted by saying "Chup Raho Aap Ko To Hum Dekh Lenge Baad Mei, Hame Malum Hai Hame Kya Karna Hai Aapke Sath, Aap Dekhte Raho Kahte Kahte Usne Mere Uper Hath Uthane Ki Koshish KI Aur Bola KI Aisi Ki Taisi Apni Aukat Mel Rah. Is Par Bahas Jyada Bach Jay Maine 100 Number Par Police Ko Call Kar Diya."

9. In the complaint dt. 05.08.2014, she mentioned that Atik Gupta had also caught her hand. She also mentioned that he raised voice and started using unparliamentary language. During investigation police examined the witnesses Mr. Gulshan Sawney, Mr. Raj Kumar and Mr. Amit Gupta. They stated that the accused Atik Gupta had raised his hand but denied catching of hand of the complainant by him. On their statements, police concluded that it is evident that the accused Atik Gupta had used unparliamentary language towards the complainant also raised his hand with intent to hit her.

10. Section 354 IPC provides punishment for assault or criminal force to woman with intent to outrage her modesty. Section 509 IPC provides punishment for word, gesture or act intended to insult the modesty of a woman. For the offence u/s. 354 IPC as well as 509 IPC



mens rea is required. There should be an intention to outrage the modesty u/s. 354 IPC and there should be an intention to insult the modesty u/s. 509 IPC.

11. In **Ram Kripal vs. State of M.P. (2007) 11 SCC 265**, Hon'ble Supreme Court explained what is outraging the modesty of a woman. Hon'ble Supreme Court referred to its earlier decisions including **State of Punjab vs. Major Singh** and held that the ultimate test for ascertain whether modesty has been outraged is whether the action of the offender is such as could be perceived as one which is capable of shocking the sense of the decency of a woman.

12. In **Chhabil Yadav (Raut) vs. State of Chattisgarh, Crl. Appeal No. 490/2001** decided on 20.04.2018, the accused had used abusive words against the prosecutrix with reference to her caste. Hon'ble High Court held that the words which are common in nature and words of colloquial are not obscene words. Only words related to sex or moral are obscene words. It was also held that *mens rea* is essential part and if any word is uttered unintentionally, it cannot be said that there is an intention to commit any criminal act.

13. In her complaints as well as in her statement u/s. 161 Cr.P.C., the complainant mentioned what was said by the accused Atik Gupta and how he behaved. If we take into consideration the description of the incident given by the complainant and the witnesses, there is absolutely no intention reflected on part of the accused to outrage the modesty of the complainant or to insult her modesty. The allegation of catching the hand was made subsequently. Even this allegation does not show that the hand of the complainant was caught by the accused with an intention to outrage her modesty. The squabble took place due to work related issues and there is nothing on record to show that the accused targeted the femininity of the complainant. Mere use of aggressive words and raising of hand or even catching of hand does not amount to insult to modesty and to outraging the modesty of woman. If assaulting a woman necessarily means outraging her modesty then in every case of quarrel between a male and a female section 354 IPC would automatically become applicable beside the offences mentioned in Chapter XVI IPC. In the matter of **Sumit Kumar Gupta vs. State of West Bengal** decided by Hon'ble Calcutta High Court which is relied upon by the revisionist, Hon'ble High Court has explained that during the heat of quarrel, touching or pushing of the complainant (woman) cannot be said to be done with intention to outrage her modesty.

14. From the discussion above it is clear that the ingredients of Section 354 IPC and Section 509 IPC were completely missing. Now we come to the offence u/s. 506 IPC. Criminal intimidation is defined u/s. 503 IPC. It provides that whoever threatens another with any injury to his person, reputation or property, or to the person or



property of anyone in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

15. *The squabble between the parties took place when the complainant intervened when the accused was talking to Mr. Gulshan, who was the team member of the complainant. The conversation between the parties seems to have turned into quarrel and there is no material to show that the accused raised his voice or hand with intention to cause alarm or to make the complainant to do or to omit to do something in order to avoid the threat, Hence, the ingredients of Section 506 IPC were missing.*

16. *From the discussion above, it is clear that the ingredients of Section 354/506/509 IPC for which the accused was Charged, were missing and charge could not have been framed against him under these sections. Question arises whether any other offence was disclosed against the accused.*

17. *Force is defined u/s. 349 IPC. Criminal force is defined u/s. 350 IPC and assault is defined u/s. 351 IPC. Section 352 IPC provides punishment for assault or criminal force otherwise than on grave provocation. In this regard Ld. Counsel for the revisionist submitted that mere raising of hand without any criminal intention will not amount to assault. Ld. Counsel also submitted that complainant had herself submitted letter dt. 07.08.2014 to the police stating that she had settled the matter. The complainant had also received compensation from the management. Ld. Counsel also raised the point that FIR could not have been registered for the offence u/s. 352 IPC, however, he agreed that there are decisions of Hon'ble Supreme Court which hold that investigation of a case will not become illegal if subsequently it is found that only non-cognizable offences are disclosed against the accused.*

18. *At the stage of framing of charge only prima facie view is to be taken. The aggressive words used by the accused which have been mentioned by the complainant coupled with the act of raising of hand prima facie makes out case of assault. The witnesses examined by the police clearly stated that the accused raised his hand with the intention to hit the complainant.*

19. *Having come to the conclusion that prima facie offence u/s. 352 IPC is made out against the accused/ revisionist, it needs to be considered whether the matter should be remanded to the trial Court for re-framing of the Charge and to try the accused.*

20. *The punishment u/s. 352 IPC is imprisonment which may extend to three months, or fine which may extend to RS. 500/- or both. The squabble took place due to work related issues and the complainant*



also agreed to settle the matter as reported by her to the SHO, PS Saket on 07.08.2014. She received compensation from the management of the hospital. There was no allegation of any previous criminal act by the accused. The case is pending for more than 4 years. Taking into consideration the facts and Circumstances of this case, I do not deem it just to remand the matter to the Ld. Trial Court for trial for the offence u/s. 352 IPC. U/S. 258 Cr.P.C. proceedings can be stopped for the reasons to be recorded. The reasons given above furnish adequate ground to stop the proceedings u/s. 258 Cr.P.C. Stopping the proceedings leads to discharge of the accused.

21. In view of the discussion above, the revision is allowed. The accused is discharged if the present case. The ball bond submitted by him before the Ld. Trial Court shall remain in force for a further period of six months u/s. 437A Cr.P.C. If the present surety does not wish to continue, fresh surety bond may be submitted. Copy of the order be sent to the Trial Court with the Trial Court Record.

22. Revision file be consigned to Record Room”

3. Counsel for the Petitioner argues that at the stage of framing of charge, Court only has to consider if the ingredients of offence alleged has been made out and not whether there is a ground for conviction. Even otherwise, the evidence brought on record, during the chargesheet, was sufficient to convict Respondent No. 2. The Revisional Court failed to appreciate that the Petitioner was pressurised to suppress the irregularities which were being carried out in connivance with the higher officials of the department of Saket City Hospital. The Petitioner was made to suffer only due to the fact that she raised alarm. He further argues that the Revisional Court has failed to appreciate that even the staff who are working with the Petitioner had, during the investigation, supported her version and after appreciating the entire material on record, the Trial Court had dismissed the application of Respondent No. 2 under Section 239 of Cr.P.C. Respondent No. 2 had threatened the Complainant with an injury to her person with an intention to cause harm and a *prima facie* case for the offences under section



354/506/509 of the IPC is made out.

4. The Court has considered the aforementioned contentions but finds no merit in the present petition. The Revisional Court has correctly identified the issue and observed that the allegations in the FIR No. 621/2014, which resulted into chargesheet, do not establish the charges against the Petitioner. A bare reading of Section 354 and Section 509 of the IPC makes it evident that for an offence under these provisions to be made out, there must be a demonstrable intent to outrage or insult the modesty of a woman. However, as rightly observed by the Revisional Court, the allegations in the present case, even if taken at their face value, do not establish such intent. The statements of the Petitioner and the witnesses indicate that the incident arose out of a work-related dispute rather than outrage or insult to the modesty of the complainant. The Revisional Court has also correctly noted that while there was an allegation of the accused catching the complainant's hand, such an act, in the absence of any accompanying sexually suggestive conduct or intent, does not meet the threshold required to constitute an offence under Section 354 or Section 509 of the IPC. As regards the offence of criminal intimidation under Section 506 of the IPC, the Revisional Court has meticulously examined the complaint, witness statements, and surrounding circumstances and has rightly found that the essential ingredients of criminal intimidation- i.e., a threat intended to cause alarm or compel the complainant to act against her will, are not satisfied.

5. Furthermore, the Revisional Court, while recognizing that an offence under Section 352 of the IPC (assault or use of criminal force otherwise than on grave provocation) was *prima facie* made out, exercised its discretion under Section 258 of the CrPC to stop the proceedings. This decision was



based on the facts that the matter had remained pending for over four years, the complainant had received compensation from the hospital management, and the dispute appeared to have stemmed from professional disagreements rather than criminal intent.

6. For the foregoing reasons, the Court finds no perversity, illegality, or jurisdictional error in the judgment of the Revisional Court warranting interference under its revisional jurisdiction. Accordingly, the present petition is disposed of along with pending application, if any.

SANJEEV NARULA, J

FEBRUARY 18, 2025/ab