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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: December 04, 2025***+ **CRL.REV.P. 982/2023**

MS. MXXXX

.....Petitioner

Through: Mr. Manoj Kumar Lohat,
Advocate

versus

THE STATE OF DELHI & ORS.

.....Respondent

Through: Mr. Ritesh Kumar Bahri,
APP for the State SI
Manisha, PS Punjabi Bagh.
Mr. Jatan Singh, Sr.
Advocate with
Mr. Kartikeya Basoya,
Advocate for R-2 & 3.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)****CRL.M.A. 25082/2023 (delay)**

1. For the reasons stated in the application, the delay of 131 days in filing the present petition is condoned.
2. The application is disposed of.

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3. The present petition is filed challenging the order dated 25.01.2023 (hereafter '**impugned order**'), passed in SC No. 648/2022 arising out of FIR No. 505/2022, registered at Police Station Punjabi Bagh, whereby the learned Trial Court discharged

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Respondent Nos. 2 and 3 of the alleged offences.

4. The brief facts of the case are as follows:

4.1. The subject FIR was registered on 30.07.2022 on a complaint made by the petitioner wherein she made allegations of gang rape against Respondent Nos.2 and 3. It is the case of the prosecution that the petitioner is a singer and she had met Respondent No.2 on 01.12.2021, who asserted that he is a Hotelier with multiple hotels in Dubai, after she had performed at a program. Allegedly, Respondent No.2 praised the petitioner's performance and offered a job to the petitioner at a new Hotel that was going to open soon. Respondent No.2 asked the petitioner to contact him in 2-4 days to discuss the formalities, whereafter, he exchanged his contact number and Snapchat ID with the petitioner. Pursuant to the same, on 15.12.2021, the petitioner received a Snapchat call from an unknown number at 7:30 PM, which she missed, followed by another call at 12:30AM on 16.12.2021. The call was allegedly made by Respondent No.2 and he asked the petitioner to meet him at McDonald's Punjabi Bagh at 6:30PM, and asked her to not carry her mobile. When the petitioner reached the spot at the concerned time, Respondent No.2 allegedly made her sit in his car and after showing her some photographs of Dubai, he suddenly kissed the petitioner forcefully on her lips, pressed her breast and inserted his finger in her private part. Respondent No.2 allegedly kept his hand on the petitioner's mouth when she resisted as well.

Subsequently, on 26.12.2021, Respondent No.2 made



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petitioner. Allegedly, he also assured to not repeat such conduct and asked her to come to Gujranwala Town to collect her job letter. Being assuaged by the assurance of Respondent No.2, the petitioner went to meet him, where he introduced her to Respondent No.3 (brother of Respondent No.2). It is alleged that on drinking the offered water, the petitioner started losing consciousness and she was raped one by one by the accused persons. Allegedly, when the petitioner regained some consciousness, she found her clothes had been taken off and Respondent No.3 was pressing her neck. Respondent No.3 allegedly threatened the petitioner against disclosing the incident to anyone and warned her that her intimate video (which was made by the accused persons) would be made viral.

4.2. During MLC, the petitioner gave history of oral sex rather than insertion of finger in her private part on 16.12.2021.

4.3. Chargesheet was filed against Respondent Nos. 2 and 3 for the offences under Sections 376D/506/34 of the IPC.

4.4. By the impugned order, the learned Trial Court discharged the accused respondents on account of the inconsistencies in the versions given by the prosecutrix and due to the absence of any supporting material on record. It was also observed that upon examining the CDR of the accused persons, their presence was not found at the relevant spot at the time of the incidents

4.5. Aggrieved by the same, the petitioner has filed the present petition.

5. The learned counsel for the petitioner submits that the

impugned order is based upon conjectures and the learned Trial

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Court has erred by exceeding its jurisdiction by conducting a mini trial at the stage of arguments on charge.

6. He submits that the statement of the petitioner which was recorded under Section 164 of the Code of Criminal Procedure, 1973 ('CrPC') is sufficient to make out a *prima facie* case against the accused persons. He submits that while any discrepancies in the versions of the prosecutrix may be a matter of defence in trial, the same cannot form the basis for discharge.

7. The learned counsel for Respondent Nos. 2 and 3 submits that the impugned order suffers from no infirmity and the learned Trial Court has aptly taken note of the material contradictions in the case of the prosecution before discharging the accused.

8. He submits that no charges can be framed against the accused persons, especially when they were not found to be at the place of incident at the relevant time as per the CDR.

9. I have heard the counsel and perused the record.

10. 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. It is not open to the Court to misconstrue the revisional proceedings as an appeal and reappreciate the material on record. At the same time, it is well-settled that the Court may interfere if the allegations are patently absurd and the basic ingredients of the offence, for which the charge is framed, are not made out [Ref. ***Amit Kapoor v. Ramesh Chander : (2012) 9 SCC 460***].



of the accused respondents, it will be appropriate to take note of the decision in the case of ***Sajjan Kumar v. CBI : (2010) 9 SCC 368***, where the Hon'ble Apex Court has culled out the following principles in respect of the scope of Sections 227 and 228 of the CrPC (that is, provisions pertaining to framing of charge and discharge):

“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)

12. 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.

13. The petitioner is essentially aggrieved by the discharge of the accused persons being helmed on the purported inconsistencies in the versions of the petitioner. It is argued that the learned Trial Court has conducted a mini trial and erroneously discharged the accused persons, without appreciating that a strong *prima facie* case is made out against them from the petitioner's statement under Section 164 of the CrPC.

14. This Court finds no merit in the said arguments. Although the Court ought not to minutely marshal evidence at the stage of framing of charges, however, when the primary material on record is only the statement of the prosecutrix, the Court cannot be



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confidence so as to give rise to grave suspicion against the accused or if the same is riddled with inconsistencies, delays or improbabilities. To hold otherwise would frustrate the purpose of sifting evidence and warrant framing of charges in every case where the prosecutrix makes allegations of rape in her statement under Section 164 of the CrPC. While the version of a prosecutrix warrants predominant consideration and holds significant evidentiary value, the Court is not constrained to play the role of a mute spectator and to accept the same as gospel truth.

15. Pertinently, the present case is not one where the accused persons have been discharged on the sole basis of minute discrepancies. In the present case, the version of the prosecutrix is rendered suspect as the inconsistencies go to the very root of the matter. In the FIR as well as in her statement under Section 164 of the CrPC, the petitioner asserted that on 16.12.2021, Respondent No.2 had inserted his finger in her private part, however, during her medical examination, the petitioner stated that she had been subjected to oral sex. Insofar as the incident on 26.12.2021 is concerned, as appreciated by the learned Trial Court, the prosecutrix has alleged on one hand that both the accused persons raped her one by one which implies that she was conscious to some level, however, she has alleged in her statement under Section 164 of the CrPC that she was unconscious and she had felt something wrong had been done to her after she regained consciousness. The said inconsistencies in regard to the petitioner being conscious or not during the 2nd incident as well as the precise nature of acts

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of corroboration from CDR.

16. Although it is argued that the petitioner has specifically alleged that Respondent No.2 had asked her to come without her phone on 16.12.2021, however, as per CDR analysis, Respondent No.2 was present at Gujranwala Town instead of Punjabi Bagh at the relevant time. Similarly, on 26.12.2021, Respondent No.2 was found at Jawahar Nagar and Respondent No.3 was present at Kingsway Camp instead of Gujranwala Town. Even the prosecutrix was found at Mukherjee Nagar or Connaught Place on 26.12.2022, which belies the case of the prosecution. Irrespective of the inconsistencies, any suspicion that may have been cast on account of the petitioner's allegations is further diluted by the factum of the accused persons being not present at the alleged place of the incident. The inconsistencies, along with the petitioner as well as the accused persons being distantly located at the relevant time, severally cripples the case of the prosecution.

17. Furthermore, undisputably, all contact between Respondent No.2 and the petitioner was established through Snapchat IDs, however, as per the response of Snapchat, they found no records of any account associated with the identifiers mentioned by the prosecutrix. Although the mobiles of accused were sent for FSL, as noted by the learned Trial Court, no videos or photographs of the prosecutrix were found in the said mobiles either.

18. There is also significant delay in registration of FIR. The petitioner has made allegations in relation to two incidents that took place on 16.12.2021 and 26.12.2021 respectively, however,

Signature Not Verified the FIR only came to be registered on 30.07.2022 after a lapse of

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around seven months. Although the petitioner maintained that the delay was caused on account of her being depressed, as noted by the learned Trial Court, no supporting medical record is accompanied with the charge sheet to give any credence to such an explanation. Pertinently, no explanation has been tendered as to why no complaint was given by the petitioner in the 10 day gap between the two incidents either.

19. Although bald allegations in relation to some intoxicating substance being administered to the petitioner were made, the accused persons were not charge sheeted for the offence under Section 328 of the IPC and as also rightly appreciated by the learned Trial Court, no iota of evidence was unearthed during investigation to show that the petitioner was intoxicated at any point by the accused persons. Due to the delay in registration of FIR, no medical evidence can be obtained to establish the same either. In ***Prashant Bharti v. State (NCT of Delhi) : (2013) 9 SCC 293***, one of the factors which weighed the Hon'ble Apex Court to quash the charge under Section 328 of the IPC was that allegations of administering of some intoxicant could not be established by cogent evidence due to intervening delay in sending blood samples for examination.

20. While vague and unsubstantiated claims of intimidation are made, in the absence of any cogent material to establish such claims and having already found the case of the prosecution to be deficient in material aspects in relation to allegation of rape, no charge can be framed against the accused persons for the offence

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21. At this juncture, this Court also considers it apposite to comment upon the implausibility of the allegations. It appears to be highly inconceivable that after being allegedly assaulted by Respondent No.2 on 16.12.2022, the petitioner willingly decided to pursue a job prospect with him and went to meet him at a place of his choosing merely because he tendered an apology.

22. In view of the aforesaid discussion, considering the totality of circumstances, in the opinion of this Court, grave suspicion is not raised against the accused respondents.

23. This Court is of the opinion that the learned Trial Court's observations do not suffer from any such infirmity or perversity which warrants interference from this Court in exercise of revisional jurisdiction.

24. The present petition is therefore dismissed.

AMIT MAHAJAN, J

DECEMBER 4, 2025

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