



2025:DHC:10404



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on : 14.10.2025
Judgment delivered on : 24.11.2025

+ **CRL.REV.P. 1105/2023 & CRL.M.A. 28470/2023**

VIJAY PARTAP SINGH

..... Petitioner

versus

**STATE (GOVT. OF NCT OF
DELHI) AND ANR.**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Kiran Kumar Patra, Mr. Ashok Kumar Singh, Mr. Preetish Sahu, Ms. Mansi and Mr. Debarshi Badra, Advs.

For the Respondent : Mr. Sunil Kumar Gautam, APP for the State with SI Chetan, PS Paschim Vihar, West.
Mr. Manu Sishodia and Ms. Hina Rajput, Advs. for R-2.

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present petition has been filed by the petitioner under Sections 397/401 of the Code of Criminal Procedure, 1973 ('CrPC') read with Section 482 of the CrPC seeking setting aside of the order



dated 11.08.2023 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), West District, Tis Hazari Courts, Delhi in Crl. Rev. No. 202/2022 and order dated 17.08.2023 passed by the learned Metropolitan Magistrate ('**MM**'), West District, Tis Hazari Courts, Delhi.

2. By the impugned order the learned ASJ allowed the revision petition filed by Respondent No.2/prosecutrix and thereby directed framing of charges against the petitioner for the offence under Section 354 of the Indian Penal Code, 1860 ('**IPC**'). By order dated 17.08.2023 the learned MM in compliance of the impugned order framed charges against the petitioner for the offence under Section 354 of the IPC.

3. The brief facts are that, the prosecutrix worked at Telephone Exchange, Udhayog Nagar, Nangloi, Delhi. It is alleged that on 24.05.2012, she reported to work at around 11:30 a.m, whereafter, she asked Smt. Preetima Devi to bring the attendance register as the same was kept in the cabin of the petitioner.

4. It is alleged that Smt. Preetima Devi came back and informed the prosecutrix that the petitioner has asked the prosecutrix to come to his cabin and put her signatures in the attendance register. The prosecutrix, thereafter, called the petitioner from her desk phone, who asked the prosecutrix to come to his cabin and mark her attendance.

5. It is alleged that the prosecutrix went to the cabin of the petitioner and asked for the attendance register, however, the petitioner refused to give the same. The prosecutrix, thereafter,



marked her attendance on the register which was kept on the table of the petitioner.

6. It is alleged that the petitioner subsequently snatched the attendance register from the prosecutrix and crossed her attendance from the register. It is alleged that the petitioner, thereafter, caught hold of the hand of the prosecutrix and touched her chest, whereafter, he allegedly asked the prosecutrix to calm down and act upon his instructions.

7. It is alleged that the petitioner started to misbehave with the prosecutrix, thereafter, the prosecutrix came out of the cabin of the petitioner and dialed 100 from her mobile phone, whereafter, she narrated the alleged incident to one Mr. N.S. Saini. Pursuant to the statement of the prosecutrix the police registered FIR No. 120/2012 for the offence under Section 354 of the IPC.

8. That on 20.01.2015 the petitioner filed an application under Section 239 of the CrPC seeking discharge. The learned Trial Court by order dated 05.05.2022 allowed the application filed by the petitioner and discharged him for the offence under Section 354 of the IPC. The learned Trial Court noted that the witnesses whose statement under Section 161 of the CrPC had been recorded were not the eye-witnesses to the alleged incident and except the statement of the prosecutrix there was no other evidence against the petitioner.

9. Being aggrieved by the aforesaid order the prosecutrix preferred a revision petition being Crl. Rev. No. 202/2022 before the learned ASJ. As noted above, the learned ASJ by the impugned order allowed



the revision petition filed by the prosecutrix and set aside the order dated 05.05.2022 discharging the petitioner for the offence under Section 354 of the IPC. The learned ASJ noted that learned trial court erred in observing that there were no eye-witnesses to the alleged incident, since the admissibility of such evidence is a subject matter of trial and cannot be commented upon at the stage of framing of charge and thereby directed the learned MM to frame charges against the petitioner for the offence under Section 354 of the IPC.

10. As noted above, the learned MM in compliance of the impugned order framed charges against the petitioner for the offence under Section 354 of the IPC by order dated 17.08.2023.

11. The learned counsel for the petitioner submitted that the learned ASJ failed to consider the fact that the petitioner had been exonerated by two departmental enquiries *vide* their reports dated 18.07.2012 and 17.08.2012 that were conducted on the same set of allegations as the alleged by the prosecutrix.

12. He submitted that the cabin of the petitioner is made of glass and the person standing outside the said cabin could easily see what was happening inside the cabin of the petitioner. He submitted that the cabin of the petitioner was not situated at an isolated area and was part of a big hall where a number of persons used to visit for redressal of their complaints.

13. He submitted that the learned ASJ failed to appreciate the fact that many departmental complaints had been filed against the prosecutrix regarding reporting to office late, disobedience and



misbehavior with other staff and in view of such her statement cannot be considered as trustworthy.

14. *Per contra*, the learned counsel for the prosecutrix vehemently opposed the arguments as raised by the learned counsel for the petitioner and consequently prayed that the present petition be dismissed.

15. I have heard the learned counsel for the parties and perused the record.

Analysis

16. The scope of interference by High Courts while exercising revisional jurisdiction in a challenge to order framing charge/discharge 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 evidence unless any glaring perversity is brought to its notice.

17. Since the petitioner has assailed the impugned order whereby the learned ASJ directed framing of charges against the petitioner, 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.”

18. The Hon’ble Apex Court in ***Union of India v. Prafulla Kumar Samal : (1979) 3 SCC 4***, dealt with the scope of enquiry a judge is required to make with regard to the question of framing of charges. Inter alia, the following principles were laid down by the Court:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code 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.

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*(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. **By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not***



grave suspicion against the accused, he will be fully within his right to discharge the accused.

(emphasis supplied)

19. 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)

20. In *State of Gujarat v. Dilipsinh Kishorsinh Rao : (2023) 17 SCC 688*, the Hon'ble Apex Court 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.”

21. 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.

22. The learned counsel for the petitioner argued that the petitioner already stood exonerated by report of two departmental enquiries dated 18.07.2012 and 17.08.2012 that were conducted by the department of the petitioner on the same set of allegations as the alleged by the prosecutrix.



23. In the present case, it is undisputed that two departmental enquiries had been conducted regarding the alleged incident and by reports dated 18.07.2012 and 17.08.2012 the department had exonerated the petitioner from the allegations as raised by the prosecutrix.

24. From a perusal of the aforesaid reports, it can be seen that the committee had examined two eye-witnesses that were present at the time of the alleged incident.

25. Mr. Mayank Singhal, who was an eye-witness, while being examined by the committee stated that on the day of the alleged incident he was sitting in the cabin of the petitioner, whereafter, the prosecutrix came and asked for the attendance register. He stated that the petitioner refused to give her the same and thereafter the prosecutrix snatched the attendance register from the hands of the petitioner and started abusing the petitioner and went outside his cabin.

26. He further stated after sometime the prosecutrix along with 5-6 people returned to the cabin of the petitioner and all of them started throwing away the files that were kept on the table of the petitioner and repeatedly abused and threatened the petitioner of embroiling him in false cases.

27. Mr. Ranvijay Singh, who was the other eye-witness stated that he was sitting outside the cabin of the petitioner and saw that the prosecutrix had snatched the attendance register from the hands of the petitioner and thereafter came outside his cabin.



28. He stated that after sometime the prosecutrix along with 4-5 people returned to the cabin of the petitioner and started throwing away files that were kept on his table. He further stated that all the persons started to abuse the petitioner and threatened him of dire consequences.

29. From a perusal of the aforesaid statements, it can be seen that the dispute relates to marking of attendance. *Prima facie*, it was the prosecutrix who had snatched the attendance register from the hands of the petitioner and thereafter initiated the alleged scuffle.

30. It is also relevant to note that Smt. Preetima Devi, whose statement under Section 161 of the CrPC was recorded during the course of investigation, had also been examined before the departmental committee.

31. In her statement under Section 161 of the CrPC, Smt. Preetima Devi stated that on the day of the alleged incident the prosecutrix had asked her to bring the attendance register that was kept in the cabin of the petitioner, whereafter, she went to the cabin of the petitioner and asked him for the same. The petitioner thereafter told Smt. Preetima Devi to ask the prosecutrix to come to his cabin and mark her attendance. She stated that she informed the prosecutrix regarding same, pursuant to which the prosecutrix went inside the cabin of the petitioner. She further stated that she is not aware of anything which happened thereafter.



32. Before the departmental committee, Smt. Preetima Devi stated that the behavior of the petitioner is good and that she has no complaints against him.

33. It is pertinent to note that Smt. Preetima Devi neither in her statement under Section 161 of the CrPC nor before the departmental committee stated any incident of sexual harassment being committed by the petitioner.

34. Even otherwise, in the chargesheet filed before the learned the Trial Court, the prosecution failed to array Mr. Mayank Singhal and Mr. Ranvijay Singh who had been examined during the departmental proceedings as witnesses, which further raises doubt on the case of the prosecution.

35. Undisputedly, nothing has been brought on record by the prosecutrix to show that the evidence collected during the course of investigation in the FIR, was not the same as sought to be relied upon by the department. Further the prosecutrix has not even challenged the said departmental proceedings before any other Court.

36. In view of the aforesaid discussion, this Court is of the opinion that there is no grave suspicion for framing of charges against the petitioner for the offence under Section 354 of the IPC.

37. It is not in doubt that the adjudication or any other proceeding in regard to the same set of allegations, can continue along with the criminal proceedings and exoneration in one may not *ipso facto* result in the other proceedings being declared as nullity in every circumstance.



38. However, when two proceedings are initiated on the same set of allegations and are also dependent on the identical evidence, the finding in any one will definitely have a bearing on the other.

39. The standard of proof in departmental proceedings is undeniably on preponderance of probability whereas in the criminal proceedings, the case has to be proved beyond reasonable doubt. The Hon'ble Apex Court in ***Ashoo Surendranath Tewari v. The Deputy Superintendent of Police, EOW, CBI & Anr. : Criminal Appeal No. 575/2020*** has held as under:

- “7 A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt.....
8. Applying the aforesaid judgments to the facts of this case, it is clear that in view of the detailed CVC order dated 22.12.2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code.”

40. Even though, the case of ***Ashoo Surendranath Tewari v. The Deputy Superintendent of Police, EOW, CBI & Anr. (supra)*** does not relate to exoneration of an accused in a case relating to sexual offences, however, it is not disputed that the Court held that once an accused has been exonerated in departmental proceedings arising from the same set of allegations, the chances of the accused being convicted become bleak.

41. Even otherwise from the allegations made in the FIR, the incident appears to be one of the minor scuffle which started at the



instance of prosecutrix. Undisputedly, the prosecutrix was the one who went to the petitioner's cabin and went on to put her signatures on the register which admittedly was in legal custody of the petitioner. The petitioner thereafter alleged to have snatched the register back. In such circumstances, possibility of minor scuffle cannot be ruled out.

42. However, in the absence of any corroborative evidence to support the allegation of outraging the modesty coupled with the fact that the allegations could not be proved even on preponderance of probability, subjecting the petitioner to ordeal of trial where the offence is required to be proved beyond reasonable doubt, would be an abuse of process of law. The allegations may have raised suspicion but considering the overall facts and circumstances, no grave suspicion is raised so as to warrant framing of charge against the petitioner.

43. In view of the above, the present petition is allowed and the impugned order and order dated 17.08.2023 is set aside. The petitioner is discharged for the offence under Section 354 of the IPC.

44. Pending Application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

NOVEMBER 24, 2025

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