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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CRL.REV.P. 1170/2023**

**THE STATE (GNCT OF DELHI) .....Petitioner**

Through: Ms. Meenakshi Dahiya,  
APP for the State  
SI Prabhash, PS- DIV/  
North

versus

**GAGANDEEP DHILLON ALIAS  
GAGAN**

.....Respondent

Through: Mr. Dhananjay Sehrawat,  
Ms. Ritika & Mr. Hardik  
Raheja, Advs.

**CORAM:**

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

**ORDER**

**17.10.2025**

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1. The present petition is filed against the order dated 15.04.2023 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge, Central, Tis Hazari Courts, Delhi in SC No. 24/2021 whereby the respondent was discharged of the offence under Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('**SC & ST Act**') arising out of FIR No. 406/2020 registered at Police Station Timar Pur.

2. Briefly stated, the FIR was registered on a complaint given by the prosecutrix. It is alleged that the prosecutrix came in contact with the respondent in September 2019 as they both used to play a game called 'PUBG'. It is alleged that thereafter the prosecutrix and the respondent started talking to each other whereafter the prosecutrix disclosed to the respondent that she belonged to the Scheduled Caste. It is alleged that thereafter on

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13.10.2019, on the prosecutrix's birthday, the respondent came to Delhi and proposed her to marry him. It is alleged that on that occasion, the prosecutrix reminded the respondent that she belonged to the Scheduled Caste and that his family may not agree to their marriage. It is alleged that the respondent, in response, stated that his family did not believe in the caste system whereafter, the prosecutrix, on such assurance, accepted the proposal for marriage.

3. It is alleged that thereafter, on 02.11.2019, the respondent again called the prosecutrix to a hotel in Majnu ka Tila whereafter the respondent established physical relations with the prosecutrix without her consent on the pretext of marriage. It is alleged that thereafter the respondent, on several occasions, developed physical relations with the prosecutrix. Thereafter, on 04.02.2020, when the respondent was returning, the respondent refused to marry with the prosecutrix on the pretext that she belonged to a lower caste and also hurled certain abuses and caste related remarks to her. It is alleged that thereafter, the respondent returned to Rajasthan and kept talking to the prosecutrix on phone and also kept assuring her that he would marry her. It is alleged that thereafter in October, 2020, the prosecutrix learnt that the respondent got engaged to another girl and when she enquired about the same from the respondent, he stated that his family did not agree to his marriage with the prosecutrix on account of her caste.

4. During the course of the investigation, the statement of the prosecutrix under Section 164 of the Code of Criminal Procedure, 1973 was recorded on 13.11.2020 wherein she



corroborated the allegations levelled by her in the FIR. After the conclusion of the investigation, chargesheet was filed for the offences under Sections 376 of the Indian Penal Code, 1860 ('IPC') and Section 3(2)(v) of the SC & ST Act.

5. By the impugned order, the learned ASJ discharged the respondent of the offence under Section 3(2)(v) of the SC & ST Act. It was noted that the prosecutrix did not allege that the accused committed the alleged offence of rape only because she belonged to the scheduled caste. It was noted that merely because the prosecutrix was a member of the scheduled caste community did not mean that the SC & ST Act has to be invoked against the accused. It was noted that the same ought to be invoked only when the intention of the accused to commit the alleged offence developed on account of the caste of the victim.

6. The learned ASJ noted that neither any averment nor any evidence on record was brought forth to suggest that the accused committed the alleged offence of rape only because of the prosecutrix's caste or status. It was consequently noted that in the given facts and circumstances, the alleged offence of rape was committed because the prosecutrix was a female and not because she belonged to Scheduled Caste. Consequently, the learned ASJ discharged the respondent of the offence under Section 3(2)(v) of the SC & ST Act.

7. In respect of the offence under Section 376 of the IPC, the learned ASJ noted that the trial came before the said Court only because the Court was established as an Exclusive Special Court to deal with the cases of SC & ST Act. It was noted that since the accused was discharged of the offence under the SC & ST Act,



the charge relating to the remaining offence ought to be decided as per the scheme laid down in the CrPC and the procedure prescribed by the Delhi High Court Rules. Consequently, the matter was transferred to the concerned Court to try the accused for the offence under Section 376 of the IPC.

8. The learned Additional Public Prosecutor for the State submits that the impugned order is based on conjectures and surmises and is liable to be set aside. She submits that the learned ASJ erred in noting that there was no allegation that the respondent committed the alleged offence only because the prosecutrix belonged to Schedule Caste. She submits that the respondent, right from the very beginning, had knowledge that the prosecutrix belonged to Scheduled Caste and had used her status to commit the alleged offence. She submits that at the stage of framing of charge, the Court ought not to conduct a mini trial and only consider if there existed grave suspicion against the accused for framing of charge.

9. The learned counsel for the respondent submits that the impugned order is well reasoned and warrants no interference by this Court.

10. Before adverting to examine the facts of the present case, since the State has assailed the impugned order whereby the respondent was discharged of the offence under Section 3(2)(v) of the SC & ST Act, 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.”

11. 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)*

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. Though, for the purpose of conviction, the same must be proved beyond reasonable doubt.

13. The State is essentially aggrieved that charges ought to have been framed against the respondent for the offence under



Section 3(2)(v) of the SC & ST Act. In that regard, it is pertinent to examine the purport of Section 3(2)(v) of the SC & ST Act. The same reads as follows:

*(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—  
(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property 1 [knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member], shall be punishable with imprisonment for life and with fine;*

14. In the present case, the prosecutrix alleged that she came in contact with the respondent through a game called PUBG in September, 2019. It is alleged that thereafter the prosecutrix and the respondent started talking to each other whereafter the prosecutrix disclosed that she belonged to Scheduled Caste. It has further been alleged that thereafter, the respondent came to Delhi and proposed to marry the prosecutrix whereafter he established physical relations with the prosecutrix on several occasions on the pretext of marrying her.

15. It is pertinent to note that the allegations do not disclose that the alleged acts were committed by the respondent only because the prosecutrix belonged to Scheduled Caste. As rightly noted by the learned ASJ, the stringent provisions of the SC & ST Act cannot be invoked only because the prosecutrix was a member of the Scheduled Caste. From a perusal of the material on record, the allegations do not disclose that the respondent committed the alleged act on account of the caste or status of the prosecutrix.

16. It is relevant to note that the Hon'ble Apex Court in the case of **Hitesh Verma v. State of Uttarakhand : (2020) 10 SCC**



**710** as relied upon by the learned ASJ as well noted as under :

*10. The Act was enacted to improve the social economic conditions of the vulnerable sections of the society as they have been subjected to various offences such as indignities, humiliations and harassment. They have been deprived of life and property as well. The object of the Act is thus to punish the violators who inflict indignities, humiliations and harassment and commit the offence as defined under Section 3 of the Act. The Act is thus intended to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community.*

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*17. In another judgment reported as Khuman Singh v. State of M.P. [Khuman Singh v. State of M.P., (2020) 18 SCC 763 : 2019 SCC OnLine SC 1104] , this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under: “*

*15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to “Khangar” Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable.”*

*18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.*

**17.** In the present case, as rightly noted by the learned ASJ,



there is no averment that the alleged offence was committed by the respondent only on account of the caste or status of the prosecutrix. Further, from a perusal of the chargesheet, it appears that the offence under Section 3(2)(v) of the SC & ST Act was added for the sole reason that the prosecutrix belonged to the Scheduled Caste. A perusal of the allegations levelled as well as the material brought forth do not reveal that the alleged offence was committed only on the ground that the prosecutrix belonged to Scheduled Caste. Consequently, considering the allegations levelled, no grave suspicion arises against the respondent which is not properly explained in order to frame charge under Section 3(2)(v) of the SC & ST Act.

18. In view of the above, this Court does not find any infirmity in the impugned order and the same cannot be faulted with.

19. The present petition is accordingly dismissed.

**AMIT MAHAJAN, J**

**OCTOBER 17, 2025/"SS"**