



2025:DHC:11236



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: December 11, 2025

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CRL.REV.P. 1189/2023 & CRL.M.A. 30299/2023

TAHIR ALI

.....Petitioner

Through: Mr. Mohd. Asif,
Mr. Sushant Pal & Mr.
Sanskar, Advs.

versus

THE STATE (N.C.T. OF DELHI)

.....Respondent

Through: Mr. Ritesh Kumar Bahri,
APP for the State
SI Jitendra, PS- Malviya
Nagar
Ms. Janki Raman Jha,
Adv. for complainant with
complainant in person

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition is filed against the order dated 21.09.2023 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), South District, Saket Court, Delhi in Case No. 445/2021 arising out of FIR No. 507/2020 ('**FIR**') dated 27.11.2020, registered at Police Station Malviya Nagar for offences under Sections 376/506 of the Indian Penal Code, 1860 ('**IPC**').

2. By the impugned order, the learned ASJ framed charges against the petitioner for the offences under Sections



376(2)(n)/323/509/506 of the IPC.

3. Succinctly stated, the FIR was registered on a complaint given by the prosecutrix alleging that she knew the petitioner since the last 4 years. It is alleged that the petitioner represented that he needed children, and on the assurance of marrying the prosecutrix, he established physical relations with her. It is alleged that the prosecutrix also gave a written complaint in relation to cheating and physical exploitation by the petitioner on 18.10.2020. It is alleged that the petitioner pressurised the prosecutrix to withdraw the complaint and also threatened her of dire consequences should she not withdraw the complaint. It is further alleged that on 27.10.2020, at about 12:40-1:00 PM, when the prosecutrix was returning from her job, two boys, whose faces were covered, approached her on a motorcycle and threatened to abduct her should she not withdraw the complaint. The same led to the registration of the FIR.

4. Prior to the registration of the FIR, in the complaint dated 18.10.2020, the prosecutrix had alleged that she has been residing in Delhi since the last 20 years with her husband Pappu and her children. She alleged that her husband only consumed alcohol and did not contribute to the household expenses, as a consequence of which the prosecutrix was forced to work as a house-help. She further alleged that in the meantime she met the petitioner, who on the false pretext of marriage, established physical relations with her.

5. During the course of investigation in the FIR, the medical examination of the prosecutrix was conducted and supplementary



statement of the prosecutrix was recorded under Section 161 of the Code of Criminal Procedure, 1973 ('CrPC'). In her supplementary statement, the prosecutrix stated that in the year 1999 when she was in her parental home at Indore, she met one Pappu and stated that they both came to Delhi in the year 2000. She stated that she resided with Pappu in a live-in relationship and also had two children with him. She further stated that after coming to Delhi, the said Pappu stopped working and started consuming alcohol as a consequence of which the prosecutrix started working as a house help. She stated that in the meanwhile, the prosecutrix met the petitioner who informed her that he was already married and did not have any children. She further stated that the petitioner had already told the prosecutrix that his wife had consented to their marriage, and stated that thereafter the petitioner established physical relations with her on the false pretext of marriage.

6. Thereafter the statement of the prosecutrix under Section 164 of the CrPC was recorded on 01.12.2020. In the statement, the prosecutrix stated that she came to Delhi with Pappu in the year 1999 and that she stayed with Pappu till the year 2013 and had two children with him. She stated that when she realised that the said Pappu would not be able to maintain her, she left him. She stated that she met the petitioner in the year 2014 and stated that from the year 2017, the petitioner started visiting her house. She stated that thereafter, since the petitioner failed to keep his promise to marry the prosecutrix, she refused to maintain relationship with him despite which the petitioner established



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physical relations with her and also abused and hit her as a consequence of which the complaint was given.

7. Thereafter, in her second supplementary statement under Section 161 of the CrPC recorded on 01.12.2020, the prosecutrix stated that she met the petitioner in January, 2017. She stated that the petitioner used to come to her house and also forcefully established physical relations with her. She stated that the petitioner also abused her and hit her, however, no MLC in this regard was prepared. She further stated that on 27.10.2020 when she was on her way to her home, two persons whose faces were covered with a cloth, came on a motorcycle near Bhagat Singh Park and implored her to withdraw the case. She stated that she could not see the faces of the said persons.

8. During the course of investigation, the petitioner filed an application for grant of pre-arrest bail, and it was argued that the prosecutrix was already married to one Prakash Survanshi. Thereafter, the third supplementary statement of the prosecutrix under Section 161 of the CrPC was recorded on 08.12.2020 wherein she stated that in the year 1999, she married one Parkash Suryavanshi as per the choice of her family members and that one child was born out of the said wedlock. She stated that after some days of her marriage, the relations between the parties turned sour. She stated that in the meantime, she met one Pappu and came to Delhi with him in the year 2000. She further stated that she never obtained any divorce from her husband Parkash Suryavanshi.

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filed before the learned Trial Court for the offences under Sections 376/506 of the IPC. By the impugned order, the learned ASJ framed charges against the petitioner for offences under Sections 376(2)(n)/323/509/506 of the IPC. The learned ASJ, while framing charges noted as under:

No doubt, in the complaint the prosecutrix has stated that she established sexual relations with the accused because of promise of marriage made by him and she has not specifically stated that accused had forced himself upon her, however, in her statement U/s-164 Cr.P.C., she has made specific allegations that accused forced himself upon her, abused her and gave beatings to her. The specific allegations in the statement U/s-164 Cr.P.C. is sufficient to frame charge for offences punishable U/s 376 (2) (n), 323 and 509 IPC against the accused.

In the complaint, the prosecutrix has also stated that after she lodged complaint on 18.10.2020 against the accused, he threatened her to withdraw the complaint otherwise, anything unfortunate could happen to her. The allegations are sufficient to frame charge for offence punishable U/s-506 IPC against the accused.

10. The learned counsel for the petitioner 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 also had a son out of the said wedlock, she could not have engaged into any physical relationship with the petitioner under any misconception or on the assurance that the petitioner would marry her. He consequently submits that the argument of the prosecutrix thus that she established physical relations with the petitioner on the assurance that the petitioner would marry her is without any merit.

11. He submits that the learned ASJ erred in framing charges



against the petitioner under Section 323/509/506 of the IPC inasmuch as the allegations are vague and generic in nature.

12. The learned Additional Public Prosecutor for the State and the learned counsel for the prosecutrix submits that the impugned order is reasoned and warrants no interference by this Court.

Analysis

13. 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.

14. Upon an 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.

15. Before advertng to examine the facts of the present case, since the petitioner has assailed the impugned order whereby charges were framed against the petitioner for offences under Sections 376(2)(n)/323/509/506 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.”

16. 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)

17. 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.

18. 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)



19. 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.”

20. Upon a careful scrutiny of the material on record, this Court is of the opinion that the invocation of Section 376 of the IPC in the present case is untenable. The FIR was initially registered on a complaint given by the prosecutrix thereby alleging that the petitioner established physical relations with her on the false pretext of marriage. It is not disputed that prior to the registration of the FIR on 27.11.2020, the prosecutrix had also given a written complaint against the petitioner on 18.10.2020 wherein she alleged that she resided in Delhi with her husband – Pappu and two children, and stated that her relations with the said Pappu had turned sour. She further alleged that in the meantime, she met the petitioner who on the false pretext of marriage established physical relations with her.

21. During the course of the investigation in the present FIR, in her supplementary statement under Section 161 of the CrPC as well as her statement under Section 164 of the CrPC, the prosecutrix stated that she came to Delhi with one Pappu in the year 1999/2000 and stayed in a live-in relationship with him. She further stated that thereafter she came in contact with the petitioner who established physical relations with her for a prolonged period on the false pretext of marriage.

22. Subsequently during the course of investigation, in her third supplementary statement recorded under Section 161 of the

Signature Not Verified Code of Criminal Procedure, 1973, the prosecutrix herself

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admitted that she married one Parkash Suryavanshi in the year 1999 as per the wishes of her family. She further stated that she had not obtained any divorce from him at any time.

23. In terms of the dictum of the Hon'ble Apex Court in *Prashant Bharti v. State (NCT of Delhi)* (*supra*), since as per her own admission, the prosecutrix was already married to one Parkash Suryavanshi from the year 1999 and had not obtained any divorce from him, the charge for offence under Section 376 of IPC on the ground that the prosecutrix was induced to enter into a sexual relationship with the petitioner on the false pretext of marriage could not have been framed.

24. Since the prosecutrix was already legally married at the relevant time, the question of her having been induced into a physical relationship by the petitioner on the pretext of marriage does not arise. The prosecutrix was in fact in a relationship of adultery with the petitioner while being validly married with her husband.

25. Further, while in her statement under Section 164 of the CrPC, the prosecutrix has asserted that when the petitioner failed to marry her, she refused to maintain relations with him, no particulars as to when she allegedly called off the relationship with the petitioner despite which the petitioner continued to establish physical relations with her has been provided. As noted above, the case of the prosecutrix is premised on the assertion that the petitioner established physical relations with her on the false pretext of marriage. Further as noted above, the petitioner,



the year 2017 despite already being married to her husband. In such circumstances, this Court finds force in the contention of the learned counsel for the petitioner that no grave suspicion arose for framing of charge under Section 376(2)(n) of the IPC against the petitioner.

26. Insofar as the framing of charge under Sections 323/509 of the IPC is concerned, it is pertinent to note that only a vague assertion that the petitioner used to abuse the prosecutrix and used to assault her has been made. In regard to the offence under Section 509 of the IPC, it is pertinent to note that no specifics pertaining to the date, time or the manner of the alleged insult has been made by the prosecutrix. Further, as far as Section 323 of the IPC is concerned, only an omnibus assertion has been made that the petitioner used to beat the prosecutrix. The order on charge only mentions that *'during the aforesaid period between 2016 to 2020, you had abused the prosecutrix in filthy language and also gave her beatings and you uttered obscene words with intent to insult the modesty of the prosecutrix and you also voluntarily caused simple hurt to her and you thereby committed offence punishable U/s-323 and 509 IPC and within my cognizance.'*

27. As noted above, no specifics pertaining to the manner in which the petitioner insulted the modesty of the prosecutrix has been mentioned. Further, while it has been alleged that the petitioner hurt the prosecutrix, except her bald assertion, nothing has been brought forth to corroborate her version. It is also



of the prosecutrix.

28. On the basis of the vague assertions, charges are framed under Sections 323/509 of the IPC and put to the accused for the purpose of the accused defending the same. In the absence of any specifics, the petitioner is only left to prove the negative. The lack of specificity, in the opinion of this Court, not only violates procedural fairness but also goes against the petitioner's right to a fair trial. Consequently, no grave suspicion arose against the petitioner for the purpose of framing of charge under Section 323/509 of the IPC.

29. As far as the framing of charge under Section 506 of the IPC is concerned, it is pertinent to note that the only allegation levelled is that the petitioner had threatened the prosecutrix to withdraw the complaint. The order on charge only records that *'the prosecutrix had lodged complaint on 18.10.2020 against you and thereafter you threatened her to withdraw the complaint otherwise, anything unfortunate could happen to her and you thus criminally intimidated the prosecutrix and you thereby committed offence punishable U/s-506 IPC and within my cognizance'*.

30. 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.

Signature Not Verified 31. In the present case, from a perusal of the FIR, it is apparent



that only a sweeping and general allegation has been levelled against the petitioner that he threatened the prosecutrix of dire consequences should she not withdraw the complaint. In the FIR, the prosecutrix had also alleged that on 27.10.2020, at about 12:40-1:00 PM, when the prosecutrix was returning from her job, two boys, whose faces were covered, approached the prosecutrix on a motorcycle and threatened to abduct her should she not withdraw the complaint. The same however has not been attributed to the petitioner. Further, the chargesheet also indicates that in respect of the incident dated 27.10.2020, no clue of the alleged persons could come on record. It is consequently evident that nothing has been brought forth to substantiate that the petitioner extended any threats to the prosecutrix with an intention to cause alarm so as to attract Section 506 of the IPC. Consequently, no grave suspicion arises against the petitioner which is not properly explained in order to frame charges under Section 506 of the IPC.

32. In view of the above discussion, the impugned order is set aside and the petitioner is discharged of the charges framed against him.

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

AMIT MAHAJAN, J

DECEMBER 11, 2025

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