



2025:DHC:4212



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 22.05.2025*+ **CRL.REV.P. 995/2024 & CRL.M.A. 22844/2024****JAGBIR SINGH**

.....Petitioner

Through: Mr. Amit Chadha, Sr. Adv.
with Mr. Sudhir Naagar, Mr.
Mohit Singh and Mr. Harjas
Singh, Advs.

versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Rajkumar, APP for the
State.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present petition, the petitioner seeks setting aside of order dated 16.03.2024 [hereafter '*impugned order*'], passed by the learned Additional Sessions Judge (SC-RC), South-East District, Saket Court, New Delhi, [hereafter '*Sessions Court*'] in SC No.101/2022, arising out of FIR No. 348/2021, registered at P.S. Jamia Nagar, Delhi, *vide* which the learned Sessions Court was pleased to direct framing of charge against the petitioner for commission of offence under Sections 323/376(2)(n)/506 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. Briefly stated, the facts of the case are that the present FIR had



been registered on the basis of the complaint dated 03.08.2021 filed by complainant, who stated that she had got married to one S.M. Khan on 04.02.1994, and they had two children from the marriage. She had alleged that the present petitioner/accused was an influential person, well-connected with powerful individuals in society, and used to frequently visit both her residence and her husband's factory. The accused had also supported her husband financially by lending him money and had assisted the family in the construction of their house. During this period, the accused had allegedly asked the complainant to divorce her husband and marry him, but she had immediately refused. Upon her refusal, the accused had threatened her, stating that he would kill her family and that they would be compelled to return the entire amount he had lent them, along with interest. She further alleged that one day, when she was alone at her house, the accused had arrived in an inebriated condition and had forcibly raped her. He had also threatened that if she disclosed the incident to anyone, he would have her family killed. She had alleged that the accused had established physical relations with her on multiple occasions at her residence, without her consent. In the year 2002, when she had become pregnant and had informed the accused about it, he had made a false promise of marriage. Relying on that false promise, he had continued to engage in physical relations with her on several further occasions. It was also alleged that on 21.05.2003, she had given birth to a male child, 'A'. She had alleged that the accused had informed her husband over the phone that he



was the biological father of 'A'. Upon hearing this, her husband had abandoned her. Thus, she and her son had become completely dependent upon the accused, and he had assured her that he would give his name and legal rights to her son. The accused had thereafter started paying ₹25,000 per month towards the expenses of the complainant and the child. He had also promised that he would transfer a property in the name of 'A'. However, he had later stopped providing the said financial support. She had further alleged that the accused had taken her to a temple in Sarita Vihar, where he had sworn her in as his wife by performing a ritual involving *sindoor* and a *mangalsutra*. However, subsequently, the accused had beaten her and threatened her not to disclose the incident of rape to anyone or to lodge any complaint against him.

3. After completion of investigation, chargesheet was filed in this case. By way of the impugned order 16.03.2024, charges were ordered to be framed against the present petitioner.

4. The learned senior counsel appearing for the petitioner contends that there is an inordinate and wholly unexplained delay of nearly 20 years in the registration of the FIR, which casts a serious doubt on the veracity of the allegations. It is submitted that neither the date, time, nor the specific place of the alleged incidents has been mentioned either in the FIR or in the charge framed against the petitioner. It is argued that the allegations, even if taken at face value, indicate a long-standing consensual relationship between the parties,



spanning from the year 2001 to 2021. The complainant herself, in her statement under Section 164 of Cr.P.C., has admitted to having accompanied the petitioner on multiple occasions, including trips to Kullu in 2004 and Goa in 2007. She has also stated that the petitioner used to invite both her and her son 'A' to family functions, suggesting acceptance and familiarity, not coercion. The learned senior counsel further argues that the complainant was fully aware that the petitioner was a married man with three children. She herself was also married and had two children. Both parties had been residing with their respective spouses during the period in question. It is submitted that in her supplementary statement recorded under Section 161 of Cr.P.C., the complainant had stated that her husband had become aware of her relationship with the petitioner and the alleged paternity of son 'A' in the year 2012, yet continued to live with her until 2017. It is stated that no allegation of divorce has been made in her statements, though it is stated in her written submissions that she had divorced her husband after becoming pregnant. The learned senior counsel further argues that the complainant's assertion that she had been threatened and coerced into silence due to fear for her life and that of her family is not only vague and unsubstantiated but is also contradicted by the DNA report on record. The said DNA report, submitted along with the supplementary charge sheet, conclusively establishes that the petitioner is not the biological father of child 'A'. In light of the above, it is submitted that the allegations appear to be an afterthought and lack credibility. It is thus prayed that



the impugned order be set aside.

5. The learned APP for the State, on the other hand, opposes the present petition and argues that the allegations disclose a *prima facie* case of rape, criminal intimidation, and deception under a false promise of marriage. It is argued that the delay in lodging the FIR is explained by the complainant's fear for her and her family's safety, given the accused's influential position. It is stated that the complainant has consistently alleged that the accused had forcibly established physical relations with her and made a false promise of marriage, and had even performed rituals in a temple to mislead her. It is further stated that the DNA report, while relevant, does not negate the allegations of sexual exploitation and coercion. Further, the WhatsApp chats and recordings between the parties require evaluation during trial and cannot be appreciated at the stage of charge. It is thus contended that at this stage, a detailed appreciation of evidence is not required and a *prima facie* case having been made out, the petition is liable to be dismissed.

6. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

7. In the present case, the complainant alleged that the petitioner herein had sexually assaulted her under threat and coercion over a prolonged period, and on the basis of false promise of marriage. It was further alleged that the petitioner had financially supported the complainant and her son for several years but had later withdrawn his



support and had rather threatened her. The petitioner however has assailed the impugned order, and has contended that the relationship between the complainant and the accused was consensual and the same spanned over two decades.

8. Before delving into the merits of the case and the contentions and issues raised before this Court, it will be germane to summarily discuss the position of law *qua* framing of charge and discharge.

9. The Hon'ble Supreme Court, in case of **Sajjan Kumar v. C.B.I.:** (2010) 9 SCC 368, held that at the time of framing of charge, the Court has to look at all the material placed before it and determine whether a *prima facie* case is made out or not at the time of framing of charge, and charges can be framed if it is of the opinion that the accused might have committed the offence. The relevant portion of the judgment is reproduced herein-under:

“21. On consideration of the authorities about 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 of the Cr.P.C. 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 discloses 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.”

10. In ***Amit Kapoor v. Ramesh Chander***: (2012) 9 SCC 460, the Hon’ble Apex Court, while explaining the scope of Section 227 and 228 of Cr.P.C., had made the following observations:

“17. Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is discharged under Section 227 of the Code. Under both these provisions, the court is required to consider the ‘record of the case’ and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground



for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the Section exists, then the Court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such jurisdiction. It may even be weaker than a *prima facie* case. There is a fine distinction between the language of Sections 227 and 228 of the Code. Section 227 is expression of a definite opinion and judgment of the Court while Section 228 is tentative. Thus, to say that at the stage of framing of charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is an approach which is impermissible in terms of Section 228 of the Code.”

11. Thus, this Court, at the stage of framing of charge, has to see whether a *prima facie* case is made out against the accused, based on the material placed on record. At this juncture, the Court is not required to undertake a meticulous appreciation of evidence or to assess whether the prosecution will ultimately succeed in securing a conviction. The test is not proof beyond reasonable doubt but the existence of a strong suspicion, grounded in the evidence on record, that the accused may have committed the offence. However, if the allegations are vague, inherently improbable, or raise only a mild suspicion, rather than grave suspicion, the accused can be discharged.

12. After examining the case file and considering the material on record, this Court is of the view that the present case emanates out of an alleged consensual relationship between the petitioner and the complainant, which is said to have commenced in the year 2001. The complainant did not disclose this relationship to anyone at the



relevant time, stating that the petitioner had extended financial assistance to her and her husband, including help in constructing their house. In her statement, she has further alleged that the petitioner had informed her husband that the accused herein was the biological father of her son 'A', following which her husband had abandoned her. It is the complainant's case that thereafter, she and her son had become entirely dependent on the petitioner, and that the petitioner, taking advantage of this dependence, had subjected her to repeated sexual assaults against her will.

13. However, a perusal of the complainant's own statements reveals certain material inconsistencies. She mentions in her statement that she had been residing with her husband till the year 2017 and she had not, at any point prior thereto, lodged any complaint before any authority alleging that the petitioner herein had forcibly committed rape upon her. Further, as per her own admission, the name of the father of her son 'A' was recorded as S.M. Khan, i.e. her actual husband. She has further stated that she was married to the petitioner in a temple ceremony; *however*, it is material to note that both the complainant and the petitioner belonged to different religions, and further that at the time of the alleged marriage, both of them were already married to their respective spouses. The factum of the accused, being already married and having his own family, has also been admitted by the complainant in the FIR itself.

14. In this Court's opinion, the complainant herein was a mature



woman at the time she had entered into the alleged relationship with the petitioner. It is her own case that she had given birth to a child fathered by the petitioner herein, while she continued to reside with her own husband and family. She further stated that she had travelled with the petitioner to destinations such as Kullu and Goa. Moreover, though she has claimed to have been separated from her husband in the year 2017, no documentary proof of such separation has been placed on record.

15. Moreover, even the complainant's contention that she was subjected to coercion by the accused, on the ground that he was the actual father of the child 'A', is also not *prima facie* substantiated, as the DNA report reveals that the petitioner herein is not the biological father of child 'A', whereas the complainant is the biological mother of 'A'.

16. The alleged incidents date back to the year 2001, yet the complaint was instituted only in 2021 – after a considerable delay of two decades – which also coincides with the emergence of an alleged monetary dispute between the parties. In view of the prolonged relationship between the parties, coupled with the inordinate delay of about 20 years in the registration of the FIR, and the fact that throughout this period, both the complainant as well as the accused were married to their respective spouses and had children from their own wedlocks, this case does not, even *prima facie*, fall within the parameters of rape on the false pretext of marriage. Rather, it appears



to be a case of a long-standing consensual relationship between two adults, shaped by mutual circumstances over an extended period.

17. Thus, considering the overall facts and circumstances, this Court is of the view that the essential ingredients constituting the offence under Section 376 of IPC are not made out even *prima-facie*, and no strong suspicion arises against the petitioner. Accordingly, the petitioner is discharged from the charge for offence under Section 376 of IPC.

18. In regards to the charge for offence under Section 323 of IPC, the complainant in her statement under Section 164 of Cr.P.C. has made specific allegations of physical abuse by the petitioner, and in her complaint, she has stated that such abuse occurred at various points during the course of their relationship. These allegations, taken as a whole, are not vague or generalised, but indicate repeated instances of physical harm sufficient to attract the ingredients of the offence under Section 323 of IPC. While medical evidence may not have been produced at this stage, the nature of the relationship as described and the power imbalance alleged in the complaint provide sufficient ground to hold that a *prima-facie* case under Section 323 of IPC is made out. The credibility and evidentiary value of these allegations are matters for trial, but at this stage, the material on record justifies framing of charge. Accordingly, the charge framed for offence under Section 323 of IPC is upheld.

19. With regard to the charge under Section 506 of IPC, which



pertains to criminal intimidation, this Court has carefully considered the material on record and the allegations levelled by the complainant. It is evident from her complaint and statement under Section 164 of Cr.P.C. that she has consistently alleged that the petitioner threatened her with dire consequences, including threats to her reputation and physical well-being, in order to coerce her into silence and to prevent her from disclosing the nature of their relationship and the alleged acts of sexual exploitation. Even though the defence has highlighted certain WhatsApp messages and voice recordings suggesting monetary demands by the complainant, these alone cannot eclipse the entirety of her consistent narrative, particularly at this stage where only a *prima facie* evaluation is required. The issue of whether the threats were actually carried out or whether they can be proven beyond reasonable doubt is a matter for trial. At this stage, it would be premature to hold that no offence under Section 506 of IPC is made out. Accordingly, the charge framed for offence under Section 506 of IPC is upheld.

20. The impugned order is therefore modified to the aforesaid extent.

21. The present petition along with pending application stands disposed of in above terms.

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 22, 2025/zp