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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 13.10.2025*+ **CRL.REV.P. 1320/2024 & CRL.M.A. 35693/2024**

RUGHRAM & ORS.

.....Petitioners

Through: Mr. Pranav Gupta and Mr.
Siddhant Verma, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the
State**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The petitioners, who are the accused persons in FIR bearing no. 53/2022, registered at Police Station RK Puram, Delhi, have preferred this revision petition assailing the order dated 24.07.2024 [hereafter '*impugned order*'] passed by the learned Additional Sessions Judge (SFTC), Patiala House Court, New Delhi [hereafter '*Sessions Court*'] whereby charges have been framed against the petitioners for commission of offence punishable under Sections 376D/506 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. Briefly stated, the facts of the present case are that the FIR was registered on 22.01.2022 on the basis of a written complaint filed by



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the prosecutrix, alleging that on 31.12.2020, while she was returning from her morning walk, she was approached by petitioner no. 3, her neighbour. He had allegedly persuaded her to accompany him to his house on the pretext of introducing her to his family members. Upon reaching there, petitioner no. 2, who was present in the house, had allegedly closed the main door, after which petitioner no. 3 had forcibly established sexual relations with her. It was further alleged that petitioner no. 2 had recorded a video of the incident and thereafter also committed rape upon her. Both of them had allegedly threatened to circulate the said video if she disclosed the incident to anyone. It was further alleged that in February 2021, petitioner no. 3 again had threatened to circulate the said video and, under that threat, compelled the prosecutrix to accompany him. On that occasion, petitioner no. 3 had allegedly taken the prosecutrix to a building in Munirka, Delhi, where petitioner nos. 1 and 3 had raped her. Being terrified by the threats extended by the accused persons, the prosecutrix had remained silent; however, after about one year, she had mustered courage and narrated the incident to her husband, following which she had lodged a complaint. On the basis of her complaint, the present FIR was registered on 22.01.2022 for the commission of offences punishable under Sections 376D and 506 of IPC.

3. During the course of investigation, on 22.01.2022 itself, the Investigating Officer (I.O.) recorded the statement of the prosecutrix under Section 161 of the Code of Criminal Procedure, 1973



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[hereafter '*Cr.P.C.*'], wherein she disclosed further details and *inter alia* alleged that she was raped on 31.12.2020 at about 6:00–6:30 AM, and for the second time, in the first week of February 2021. The prosecutrix's statement under Section 164 of Cr.P.C. was thereafter recorded before the learned Magistrate on 24.01.2022, wherein she retracted her earlier allegations and stated that no such incident had taken place. After completion of investigation, the chargesheet was filed against the accused persons.

4. The learned Sessions Court, *vide* the impugned order dated 24.07.2024, was pleased to frame charges against the petitioners for the offences punishable under Sections 376D and 506 of IPC. The relevant observations of the learned Sessions Court are extracted hereunder:

“5. In the statement recorded in the form of FIR, there are specific allegations against the accused no.1, 2 and 3 that they had committed rape upon the prosecutrix. It is specifically alleged that on 31.12.2020, the accused no.1 and 3 had raped the prosecutrix. Further, there are allegations that accused no.1 and 2 had committed rape upon the prosecutrix in February 2021. Despite certain doubts as to the location of accused no.1 and 3 at the relevant point of time, the same is subject matter of trial.

6. Therefore, from the above discussion and perusal of material placed on record by the prosecution, there is sufficient *prima facie* material to frame charges against all the accused persons for having committing sexual intercourse with the prosecutrix against her will and without her consent. Therefore, charge for the commission of offences punishable u/s 376D/506 IPC is made out against all the accused persons. Formal charge be framed accordingly.”

5. The learned counsel appearing on behalf of the petitioners



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contends that the impugned order suffers from non-application of mind and is liable to be set aside. It is submitted that in her statement recorded under Section 164 of Cr.P.C., the prosecutrix did not support the case of the prosecution and categorically denied the commission of any offence by the petitioners. It is further argued that the prosecutrix has been inconsistent in her statements, as her version recorded under Section 161 of Cr.P.C. introduces new and contradictory facts from time to time, which casts serious doubt on the fairness of the investigation and the genuineness of the allegations. The learned counsel also submits that the prosecution failed to procure the relevant Call Detail Records (CDRs) of the prosecutrix for the alleged dates of incident. Furthermore, it is contended that the prosecution could only obtain the CDRs of petitioner nos. 1 and 3 for the alleged incident of the first week of February 2021, but not for 31.12.2020. Even those CDRs, it is argued, reveal that the petitioners were not present in Delhi or in the vicinity of the alleged place of occurrence at Munirka. In fact, the location of petitioner no. 1 was traced to Rajasthan at the relevant time. As regards petitioner no. 2, it is pointed out that no CDRs were obtained at all. It is also argued that the FIR was lodged after a delay of about one year. Therefore, in these circumstances, the learned counsel for the petitioners prays that the impugned order be set aside and the petitioners be discharged.

6. The learned APP for the State, on the other hand, contends that the allegations against the petitioners are grave and serious in nature.



It is submitted that the prosecutrix lodged the complaint after a delay of one year as she was under constant threat from the accused persons. It is further contended that the contents of the FIR, the initial statement of the prosecutrix recorded under Section 161 Cr.P.C., and the statement given to the doctor during medical examination, collectively make out a *prima facie* case against the petitioners.

7. The prosecutrix, despite being duly served by the I.O., has chosen not to appear before this Court on any occasion; consequently, no submissions were made on her behalf.

8. This Court has **heard** arguments addressed on behalf of the petitioners and the State, and has perused the material available on record.

9. In the present case, the alleged incidents of rape are alleged to have occurred on two different occasions. The prosecutrix, in the FIR and in her first statement recorded under Section 161 of Cr.P.C., alleged that the first incident took place on 31.12.2020 at about 6:00–6:30 AM, when petitioner no. 3 took her to his house (a government quarter in the R.K. Puram area), where petitioner no. 2 was also present. It is alleged that both of them committed rape upon her, and petitioner no. 2 also recorded a video of the said act. The second incident is alleged to have taken place in the first week of February 2021, when petitioner no. 3, by threatening to circulate the aforesaid inappropriate video, took the prosecutrix to a building in Munirka, where both petitioner no. 3 and petitioner no. 1 allegedly committed



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rape upon her.

10. *Firstly*, this Court notes that the FIR was lodged by the prosecutrix only after a lapse of about one year from the dates of the alleged incidents. The reason assigned by her for such delay is that she was living under fear and threat, as the petitioners had allegedly recorded a video of the first incident and threatened to make it public. However, as is evident from the material on record, no such video, allegedly recorded by petitioner no. 2, was recovered by the police during the investigation.

11. Furthermore, the medical examination of the prosecutrix did not yield any significant medical evidence, as no exhibits could be collected by the doctors concerned as the examination had been conducted nearly a year after the alleged incidents. Owing to such delay, the possibility of finding external injuries or signs of force on the person of the prosecutrix, including her private parts, was naturally ruled out.

12. This Court also notes that after registration of the FIR on 22.01.2022, the prosecutrix accompanied the I.O. for identification of the places of occurrence and preparation of site plans. However, she was unable to identify the building in Munirka where petitioner no. 3 had allegedly taken her in the first week of February 2021 and raped her. Consequently, no site plan of that location could be prepared by the I.O.

13. *Secondly*, it is material to note that after registration of the FIR



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on the basis of a written complaint filed by the prosecutrix, her statement under Section 161 of Cr.P.C. was recorded on the same day, i.e. 22.01.2022, wherein she narrated the alleged incidents in detail and named all the petitioners, assigning specific roles to each of them in the commission of the offence. However, at the time of recording her statement under Section 164 of Cr.P.C. on 24.01.2022 before the learned Magistrate, the prosecutrix resiled from her earlier version and categorically stated that no such incident, as alleged, had occurred. She stated before the learned Magistrate – *“Nothing happened with me. I do not wish to say anything about this.”* It is, therefore, evident that the statement of the prosecutrix recorded under Section 164 of Cr.P.C. does not support the case of the prosecution.

14. It is also pertinent to note that immediately after her statement under Section 164 of Cr.P.C. was recorded, the I.O., on the same day i.e. 24.01.2022, recorded her supplementary statement under Section 161 of Cr.P.C. In that statement, the prosecutrix alleged that while she was returning from the police station after registration of the FIR, she met the wife of petitioner no. 2, who told her that she was pregnant and that her husband was remorseful for the act he had committed. The wife of petitioner no. 2 allegedly requested the prosecutrix to change her statement and not implicate her husband. The prosecutrix further stated that the next day, her husband received a phone call from the brother of petitioner no. 3 and the father of petitioner no. 1, who also requested them to alter her statement. It was for this reason, according to the prosecutrix, that she had



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informed the learned Magistrate that no offence had been committed.

15. However, on 01.02.2022, the prosecutrix once again changed her stand, and in another supplementary statement recorded under Section 161 of Cr.P.C., she informed the I.O. that neither had she met the wife of petitioner no. 2 on 22.01.2022, nor had her husband received any call from the relatives of the other accused persons on 23.01.2022.

16. Thus, it is clear that the prosecutrix has not supported the case of the prosecution either in her statement under Section 164 of Cr.P.C. or in her subsequent supplementary statements recorded under Section 161 of Cr.P.C.

17. This Court is conscious of the settled legal position that mere discrepancies between the FIR and the statement under Section 164 of Cr.P.C. cannot by themselves be a ground to discharge an accused. However, the present case is not one of minor inconsistencies or discrepancies but of a complete change in the stand of the prosecutrix – wherein she initially levelled detailed allegations against the petitioners but later informed both the learned Magistrate and the I.O. that no offence had taken place.

18. Even the chargesheet filed by the I.O. records in its conclusion that, apart from the initial statement of the prosecutrix and her MLC, no other corroborative or supporting evidence could be collected during investigation. Thus, for this reason, the chargesheet was filed against the petitioners without effecting their arrest.



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19. *Thirdly*, during the course of investigation, notices under Section 91 of Cr.P.C. were issued to the Commanding Officers (Indian Navy) of petitioner no. 1 and petitioner no. 2. In response, it was informed that petitioner no. 1 was on leave from 21.01.2021 to 10.02.2021. Subsequently, during interrogation, petitioner no. 1 informed the I.O. that he had travelled to his native place in Rajasthan due to the death of his cousin, which was the reason for his leave. Further, during investigation, the Call Detail Records (CDRs) and Consumer Acquisition Forms (CAFs) with location information were sought to be procured by the I.O. for the period between 01.12.2020 and 22.01.2022 for petitioner nos. 1 and 3 as well as the prosecutrix. However, the call details of the prosecutrix could not be obtained. Notably, upon analysis of the CDRs and location charts of petitioner nos. 1 and 3, it was found that during the first week of February 2021, although petitioner no. 3 was in Delhi, petitioner no. 1 was in Rajasthan during that period – even though it is alleged that he had raped the prosecutrix in Delhi in the first week of February 2021. Thus, the fact that petitioner no. 1 was on leave from 21.01.2021 to 10.02.2021, which he asserts was on account of the death of his cousin in Rajasthan, stands corroborated by his CDRs and location chart.

20. *Fourthly*, in response to the notice under Section 91 of Cr.P.C., the Commanding Officer of petitioner no. 2 reported that he was on duty from 6:55 PM on 30.12.2020 till 6:00 AM on 31.12.2020, and that he subsequently rejoined his unit at 8:16 AM and remained on



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duty until 3:00 PM. The prosecutrix has alleged that the first incident of sexual assault occurred on 31.12.2020 at about 6:00–6:30 AM, when petitioner no. 2 allegedly raped her; however, such an allegation appears improbable, since as per official records, petitioner no. 2 was on duty at the relevant time.

21. It is a well-settled principle of law that when the statement of the prosecutrix is inconsistent or there are material discrepancies, the Court must examine whether there exists any other material on record capable of lending corroboration to her version. However, in the present case, the only material supporting the prosecution version is the first statement of the prosecutrix recorded under Section 161 of Cr.P.C. and the statement given by her to the doctor at the time of medical examination. The prosecutrix has, however, exonerated the accused persons in her statement under Section 164 of Cr.P.C. and in her supplementary statements under Section 161 of Cr.P.C., categorically asserting that no such incidents took place. No other corroborative or supporting evidence has surfaced during investigation. On the contrary, as noted above, the material collected by the prosecution, including the replies received from the Commanding Officers of petitioner nos. 1 and 2, and the CDR analysis, points towards the innocence of the accused persons.

22. As already noted, the prosecutrix has also chosen not to appear before this Court to oppose the present petition, despite being duly served on multiple occasions by the I.O. concerned.



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23. Therefore, this Court is of the considered view that neither can any grave suspicion be inferred against the petitioners, nor does the material on record disclose the existence of a *prima facie* case. In such circumstances, it would not be just or proper to frame charges against the petitioners for offences under Sections 376D and 506 of IPC. While it is true that at the stage of framing of charge, the Court is not required to conduct a mini-trial, there must nevertheless exist sufficient material on record to *prima facie* establish the commission of the alleged offences by the accused persons and to raise grave suspicion against them.

24. In light of the foregoing discussion, this Court is inclined to allow the present petition and accordingly, petitioner nos. 1, 2 and 3 are discharged of the offences alleged against them. The impugned order is set aside.

25. The present petition alongwith pending application, if any, is disposed of.

26. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

OCTOBER 13, 2025/ns