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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **CRL.REV.P. 448/2025 & CRL.M.A. 33131/2025, CRL.M.A. 33132/2025**

STATE .....Petitioner

Through: Mr. Ritesh Kumar Bahri, APP for the State.
SI Prashant Malik, PS Laxmi Nagar.

versus

S .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **11.11.2025**

CRL.REV.P. 448/2025 & CRL.M.A. 33132/2025 *(for condonation of 437 days delay in filing the petition.)*

1. The present Petition has been filed under section 438 read with 442 of Bharatiya Nagarik Suraksha Sanhita (*hereinafter* "**BNSS"**) assailing the Order dated 27.03.2024 (*hereinafter* "**the impugned Order**") passed by the learned Additional Sessions Judge (*hereinafter* "**ASJ**"), *vide* which the accused/Respondent was discharged of the offences under Section 376(2)(n) of the Indian Penal Code, 1860 in F.I.R. No. 344/2021 registered at P.S. Laxmi Nagar.

2. Succinctly stated, it is the case of the Petitioner, that the prosecutrix got married to Mr. D S in the year 2005 and two children were born out of the wed-lock. Due to ongoing domestic disputes and instances of violence, she filed a divorce petition against her husband in January 2016, which is pending adjudication.

3. It is stated that in May 2016, the Respondent, the brother-

in-law (nandoi) of the Prosecutrix, allegedly attempted to sexually assault the Prosecutrix at her residence, however, upon her resistance, he left without being able to commit the act.

4. On a subsequent occasion, he allegedly administered sedatives or intoxicants to the Prosecutrix under the pretext of medication. When she regained consciousness after several hours, she found her clothes in disarray and suspected sexual assault. Later that evening, the Respondent allegedly sent her obscene photographs, using them to blackmail and threaten her.

5. It is further alleged that between April 2018 and February 2019, the Respondent is stated to have repeatedly sexually assaulted the Prosecutrix under constant threats of circulating her private photographs to her estranged husband, thereby jeopardizing her divorce and custody proceedings. In April 2018, the Respondent allegedly took the Prosecutrix to Yamuna Nagar, Haryana, under the guise of medical treatment, where she was administered unknown injections by his friend, Ajay Sharma, and kept in a hotel for three days in a sedated condition, during which she was subjected to sexual exploitation. After returning to Delhi, the Respondent resumed acts of intimidation and blackmail and on 16.05.2021, he allegedly forwarded her obscene photographs to her estranged husband, causing her severe psychological trauma.

6. Owing to continued threats and coercion, the Prosecutrix, accompanied by an NGO counsellor, approached Police Station Laxmi Nagar and lodged a complaint on 16.05.2021, pursuant to which FIR No. 344/2021 dated 16.06.2021 under Section 376(2)(n) IPC 1860 was registered against the Respondent. Her statement under Section 164 Cr.P.C. was recorded, and the

chargesheet was filed against the Respondent and his associate/Sh. Ajay Sharma.

7. Upon consideration of the material on record, the learned ASJ found the case of the prosecutrix inherently improbable and unsupported by cogent evidence. Thus, *vide* the impugned order dated 27.03.2024**,** the Learned Trial Court discharged both the accused persons by observing that the evidence placed on record is insufficient to raise a grave suspicion against the accused persons.

8. Aggrieved thereby, the Petitioner has preferred the present petition, challenging the legality and propriety of the impugned discharge order.

9. At the very outset, this Court finds it apposite to deal with the application filed by the petitioner/State under Section 5 of the Limitation Act, 1963 read with Section 482 of the BNSS, seeking condonation of delay of 437 days in filing the present petition.

10. The learned APP for the Petitioner/State submits that the delay in filing the present revision petition was due to administrative delays and procedural formalities. It is stated that the certified copy of the impugned order was applied for on 30.03.2024 and obtained on 09.05.2024, whereafter, the file was sent to the concerned department for obtaining an opinion for filing Revision on 27.05.2024. The proposal for filing the Revision was approved by the competent authority on 17.12.2024, and the matter was marked to the Delhi High Court Prosecution Department on 20.12.2024.

11. It is further stated that the drafting process commenced on 25.02.2025. Certain documents of the trial court record were reportedly missing, necessitating a call for the original paper

book. Thereafter, time was consumed in translation of annexures, and signed affidavits were received only on 13.10.2025. Hence, the present revision has been filed after an inordinate delay of 437 days.

12. Evidently, the explanation furnished by the Petitioner is routine and mechanical. The so called "*administrative delays*" merely outline the movement of the file from one office to another, without any plausible justification for the substantial intervals between each step. No individual responsibility has been fixed, nor has any material been produced to indicate that the matter was pursued with reasonable diligence at any stage.

13. The Hon'ble Apex Court has frowned upon following of such practices by the Government departments. In ***Postmaster General v. Living Media India Ltd.*, (2012) 3 SCC 563,** the hon'ble Apex Court has categorically held that the Government cannot claim a separate period of limitation, and that delay cannot be condoned mechanically merely because a Government Department is the applicant. The Apex Court deprecated reliance on *"impersonal machinery"* or *"bureaucratic methodology"* as excuses in an era of modern communication and digital workflow.

14. Similarly, the Hon'ble Supreme Court, in the case of ***State of M.P. v. Bherulal*, (2020) 10 SCC 654,** while observing the irony that no action is taken against the officers who sit on files and do nothing under a presumption that the court would condone the delay in routine, held as under:

> *"6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a*

quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.

7. We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers responsible."

15. In the present case, apart from the standard recital of inter-departmental processing, no cogent or satisfactory explanation is forthcoming for a delay of over fourteen months. The record discloses long, unexplained intervals between each step of movement of the file. Such lethargy and lack of promptitude cannot be equated with *"sufficient cause"* within the meaning of Section 5 of the Limitation Act, 1963.

16. The settled principle is that *"every day's delay must be explained"* and mere procedural formalities or internal approvals cannot suspend the operation of limitation. The Courts have repeatedly cautioned that condonation of delay is an exception, not a rule and cannot be granted as a matter of administrative indulgence. The State, being a litigant with greater institutional

resources, is expected to act with higher diligence.

17. This Court is conscious of the fact that the State is not a private litigant but represents and espouses the cause of the victim. Therefore, any delay on the part of the State, in the ordinary course, should not operate to the prejudice of the victim.

18. The impugned order and the material placed on record has been carefully examined.

19. Before adverting to the merits of the case it is apposite to note that 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."

20. It is no more *res integra*, that 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.

21. Keeping the above principles in mind the present case may be discussed. pertinently, the allegations of repeated sexual assault by accused are stated to have occurred between 2016 and 2019. However, the first complaint was lodged only on 16.06.2021, after an unexplained delay of nearly five years. Such a prolonged silence, unaccompanied by any plausible justification, seriously undermines the credibility of the prosecutrix's version.

22. A crucial foundation of the prosecution case is the

assertion that the prosecutrix was blackmailed by accused, who allegedly possessed her obscene photographs and threatened to circulate them. The data retrieved from the mobile phone of the accused seized during the investigation and it was sent to the FSL for retrieval of the alleged obscene data. However, upon forensic examination, no such obscene photographs or videos were found. The absence of any such material demolishes the very basis of the alleged blackmail.

23. Additionally, the photographs of the accused along with the prosecutrix, provided to the IO by the accused and duly accompanied by a certificate under Section 65B of the Indian Evidence Act, 1872 reveal that the prosecutrix and the accused are cordial and comfortable in each other's presence. The transcripts of audio conversations among the accused, his wife, the prosecutrix, and her husband also do not contain any allegation of rape or blackmail. On the contrary, they reflect mutual intimacy indicative of a consensual relationship. There is nothing in the exchanges to indicate any hesitation, fear, or apprehension on the part of the victim regarding the alleged obscene photographs. Even the WhatsApp chats between the prosecutrix and the accused show friendly and affectionate exchanges, with instances of financial assistance being extended by the accused to the prosecutrix from time to time. Additionally, a perusal of the Bank statements reveals that the prosecutrix was receiving money from the accused. Such consistent interaction and monetary transactions render the claim of continuous sexual assault highly improbable.

24. It also emerges from the record that although the prosecutrix alleged that her objectionable photographs were sent

to her husband, the husband was neither examined during investigation nor cited as a witness. Consequently, there exists no material to substantiate the allegation that any such photographs were ever circulated.

25. In light of the above discussion, it is evident that none of the allegations of the prosecutrix stand corroborated by the evidence placed on record. Though a conviction can be sustained solely on the basis of the testimony of the victim if it inspires confidence, yet, at the stage of framing of charges, when the entire material on record completely belies the prosecution case and fails to raise even a grave suspicion against the accused, the benefit thereof must enure to the accused.

26. Subjecting the respondent to the rigours of a full-fledged trial in such circumstances would be an abuse of the process of law and cause unwarranted prejudice, when the foundational facts themselves do not disclose the commission of any offence.

27. There is no merit in the present petition, which is hereby dismissed. Pending application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

NOVEMBER 11, 2025

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