



2025:DHC:10654



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: November 24, 2025***+ **CRL.REV.P. 477/2025 & CRL.M.A. 34921/2025**

XYZ

.....Petitioner

Through: Mr. Rajeev Krishan
Sharma, Ms. Megha
Sharma and Mr. Shantanu
Singh, Advs.
Petitioner (through VC)

versus

STATE NCT OF DELHI AND ANR
& ORS.

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with ASI
Jyoti, PS South Rohini.

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

1. The present petition is filed under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') read with Section 442 of the BNSS seeking setting aside of the order dated 11.08.2025 (hereafter 'impugned order') passed by the learned Additional Sessions Judge ('ASJ'), North-West District, Rohini Courts, Delhi in Crl. Rev. 327/2024 whereby Respondent No.2 was discharged of the offences under Sections 354/354A of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, FIR in the present case was registered pursuant to a complaint made by the petitioner. It is alleged that the petitioner was working in a school as a PGT where Respondent No.2 was the Vice Principal. It is alleged that

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Respondent No.2 would use sexually oriented language towards

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the petitioner. It is alleged that Respondent No.2 would threaten the petitioner to obey his whims or he would implicate her in a false SC/ST Act case. It is alleged that the petitioner would be mentally tortured by the repeated demands of undue favours made to her by Respondent No.2. It is alleged that the petitioner has also submitted complaints against Respondent No.2 in the Education Department and CBSE. It is alleged that on 17.09.2022, Respondent No.2 while passing the petitioner told her that “*you haven’t done anything for me, so I’ll make you weep*” and later that day the petitioner received a salary reduction order.

3. The petitioner in her statement under Section 164 of Code of Criminal Procedure, 1973 (‘CrPC’) alleged that Respondent No.2 would repeatedly ask for sexual favours from the Petitioner. The petitioner alleged that during the Corona period Respondent No.1 came to her room and sat close to her asking her to teach him some arts as well. She alleged that on that same day when she was sitting alone, he kissed her on her leg and her hand. The petitioner further alleged that once when she was changing the decoration of the bulletin board, Respondent No.2 came and stood right behind her, and when she turned around, he caught her tightly by her waist. She alleged that Respondent No.2 would repeatedly make her do work which would have her visit his office. Several other instances of harassment and demands of sexual favours have also been stated in the statement of the petitioner under Section 164 of the CrPC.

4. Respondent No.2 was charge sheeted for the offences

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under Sections 354/354C/509 of the IPC.

5. The learned Magistrate framed charges under Sections 354/354A of the IPC against Respondent No.2 and discharged him of the offence under Section 509 of the IPC *vide* order dated 02.08.2022.

6. Aggrieved by the aforesaid order Respondent No.2 preferred a revision petition before the learned ASJ. The learned ASJ *vide* the impugned order discharged Respondent No.2 of the offences under Sections 354/354A of the IPC. The learned ASJ noted that the complaint of the petitioner, as well as her statement under Section 164 of the IPC, were silent about any date, place or time of any of the alleged incidents. It was noted that all the allegations made by the petitioner are general and vague. The learned ASJ further noted that the complaint dated 17.09.2022 made by the petitioner lacks the ingredients of Section 354/354A of the IPC.

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

8. The learned counsel for the petitioner submits that the learned ASJ erred in discharging the respondents of the offences under Sections 354/354A of the IPC. He submits that at the stage of framing of charge, the Court is only tasked with evaluating the material and documents on record with a view to finding if the facts, when taken at face value, disclose the ingredients of the alleged offences.

9. He submits that the learned ASJ ignored the petitioner's



statement under Section 164 of the CrPC, where the petitioner disclosed the whole scenario and harassment committed by Respondent No.2. He submits that statement given by the petitioner under Section 164 of the CrPC carries evidentiary value and the same has not been appreciated by the learned ASJ in the impugned order.

10. He submits that the Hon'ble Supreme Court of India in the case of *Hazrat Deen V. The State of U.P and Anr. in S.L.P. Cr. No. 9552/2021* has held that discrepancies between the FIR and the subsequent statement under Section 164 of the CrPC may be a defence, however the same cannot be a ground for discharge without initiation of Trial.

11. *Per contra*, the learned counsel for Respondent No.2 submits that the impugned order is well reasoned and warrants no interference by this Court.

12. I have heard the counsel and perused the record.

Analysis

13. Since the petitioner has assailed the impugned order whereby Respondent No.2 was discharged of the offences under Sections 354/354A 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.”

14. 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)

15. The Hon’ble Apex Court in ***State of Gujarat v. DilipsinhKishorsinhRao*** : 2023 SCC OnLine SC 1294, 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."*

16. It is pertinent to note 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.

17. In the present case, it is relevant to note that in the initial complaint made to the police, the petitioner alleged that she was facing mental torture at the hands of Respondent No. 2, and alleged that Respondent No. 2 spoke indecently with her and made sexual remarks. The relevant part of the allegation is



reproduced hereunder:

"He uses sexually oriented language like (Why will you after going back home, take of us too; I'll send a person to your room; I won't let you sit alone; there's no husband waiting for you at your house so what's the use of going back home; if you keep me happy I'll then keep you happy; I you don't obey my whims then I'll implicate you in false SC/ST Act case and take your job; No one can take any action against me; you can ask for whatever enquiry you want but you'll have to obey to my whims. He also harassed me mentally by making the statements like (you laugh and have fun with the guard and even sometimes hold the flag with the guard, sometimes also sit with us and take some from us too). I am very much tortured by these types if repeated. undue favours and demands. I thought of committing suicide because of this mental and sexual harassment.

I am residing with my old and handicap parents and I am a single parents having 13 years Old son. He always demands share in claims and illegible received. I have already submitted complaints in Education Dept. as well as C.B.S.E. Today also while passing in the morning he said "you haven't done anything for me, so I'll make you weep" and around 1 :30 PM, I received an Order of Salary deduction Order. I was already under stressed from morning due to the comment he passed and could not bear the burden of this Order and felt pain in Chest and panic attack with numbness and now admitted in hospital. Kindly take strict action and register FIR.

18. From a perusal of the same, it is apparent that vague and general allegations have been levelled by the petitioner against Respondent No. 2 in the initial complaint. It is pertinent to note that apart from the vague assertions, no whisper of any incident specifically corroborating that Respondent No. 2 harassed the petitioner or demanded sexual favours from her has been mentioned. The petitioner, in her statement under Section 164 of the CrPC, improved her stance and made references of certain incidents where Respondent No. 2 allegedly harassed the petitioner and demanded favours from her.



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19. The petitioner, in her statement under Section 164 of the CrPC, stated that Respondent No.2 would ask for sexual favours from her. She stated that during the Corona period Respondent No.1 came to her room and sat close to her asking her to teach him some arts as well. She alleged that on that same day when she was sitting alone, he kissed her on her leg and her hand. The petitioner further alleged that once when she was changing the decoration of the bulletin board, Respondent No.2 came and stood right behind her, and when she turned around, he caught her tightly by her waist. She further stated that Respondent No. 2 would repeatedly make her do work which would have her visit his office. Several other similar instances of harassment and demands of sexual favours have also been stated in the statement of the petitioner under Section 164 of the CrPC.

20. From a perusal of the statement under Section 164 of the CrPC, it is apparent that while references of certain incidents where Respondent No. 2 allegedly harassed the petitioner are made, however, the same are devoid of any mention of time, date or place of occurrence of the alleged incidents.

21. It is also pertinent to note that the statement under Section 164 of the CrPC shows a marked improvement from the stance taken by the petitioner in her initial complaint. It is relevant to note that the only allegations made by the petitioner in her initial complaint against Respondent No.2 were of mental torture and use of sexually coloured language, however, the petitioner in her statement under Section 164 of the CrPC made several material improvements listing out instances of Respondent No.2 grabbing



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her waist and kissing her arm and leg while failing to mention the date, time or place where the alleged incidents took place. In that regard, as rightly noted by the learned ASJ, the allegations are generic in nature and do not raise grave suspicion against Respondent No. 2 for the purpose of framing of charge under Sections 354/354A of the IPC. The grave suspicion is dispelled by the material improvements made by the petitioner in her statements coupled with the fact that all allegations made are vague and not supported by any corroborative evidence.

22. Undisputedly criminal law can be set in motion only on the statement of the victim. However, when the allegations are not specific or are not supported with any corroborative evidence, the Court ought to be careful before subjecting an accused to a trial. Therefore, unless a grave suspicion is raised, the charges cannot be framed.

23. Apart from the fact that the allegations are generic and considering the improvement made by the prosecutrix in her statement under Section 164 of the CrPC which seems to be an improvement, the same also lacks any mention of date, time or specific place of incident. Even otherwise, no witness has supported the veracity of the statement either.

24. In view of the above discussion, I do not find any infirmity in the impugned order, and the same cannot be faulted with.

25. The present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J