



2025:DHC:10890



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: December 1, 2025+ **CRL.REV.P. 491/2025 & CRL.M.A. 35565/2025,**
CRL.M.A. 35566/2025

STATE

.....Petitioner

Through: Mr. Sunil Kumar Gautam,
APP for the State.
ASI Vikram Singh & Insp.
Harish Kumar, PS
Karawal Nagar.

versus

MD TUFAIL @ RAHEES & ANR.Respondents

Through:

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

1. The present petition is filed under Sections 438/442 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('**BNSS**') challenging the order dated 14.01.2025 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), East District, Karkardooma Courts, Delhi in Sessions Case No. 1083/2024 whereby the accused/respondents were discharged for the offences under Sections 376/506 of the Indian Penal Code, 1860 ('**IPC**').

2. The brief facts are that the prosecutrix used to work at a factory where Respondent No. 1 also used to work. It is alleged

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Page 1 of 12



2025:DHC:10890



that the prosecutrix had given a loan of ₹60,000/- to Respondent No. 1 on account of marriage of his daughter.

3. It is alleged that on 08.11.2023, when the prosecutrix was alone working in the factory, Respondent No. 1 came to her and thereafter established sexual relations with her. It is alleged that she informed regarding the same to the owner of the factory, however, after advice received from other workers she did not make any PCR call to the police and Respondent No. 1 ran away from the spot.

4. It is alleged that on 16.04.2024, the prosecutrix went to the house of Respondent No. 1 to demand repayment of loan of ₹60,000/- advanced by her to Respondent No. 1. It is alleged that after reaching the house, Respondent No. 2 (father of Respondent No. 1) threatened to kill the prosecutrix. On 14.05.2024, a PCR call was made by the prosecutrix, and subsequently, on 15.05.2024, a written complaint was given by the prosecutrix which led to registration of FIR for the offences under Sections 376/506 of the IPC.

5. Thereafter, the medical examination of the prosecutrix was conducted and the respondents were arrested in the present case.

6. The statement of the prosecutrix under Section 164 of the Code of Criminal Procedure, 1973 ('CrPC') was recorded, wherein, she alleged that prior to Diwali Respondent No. 1 had forcibly made sexual relations with her in the factory. She stated that on the advice of the other workers she did not make any complaint. She further stated that on 17.05.2024 (after registration of FIR), Respondent No.1 had come to her house and



allegedly threatened to kill her, whereafter, the prosecutrix complained about the same to Respondent No. 2, however he did not do anything.

7. After completion of investigation the police filed chargesheet against the respondents for the offences under Sections 376/506 of the IPC.

8. The learned ASJ after hearing the arguments on charge by the impugned order discharged the respondents for the aforesaid offences. The learned ASJ noted that there was a delay in registration of FIR and the victim repeatedly changed her stance during the course of investigation and the same did not inspire confidence in the case of the prosecution.

9. The learned Additional Public Prosecutor for the State submits that the impugned order passed by the learned ASJ is perverse, manifestly erroneous and unsustainable in the eyes of law.

10. He submits that the learned ASJ failed to appreciate that the prosecutrix has made specific allegations against the respondents in the FIR as well as her statement under Section 164 of the CrPC.

11. He submits that the learned ASJ had erred by conducting a mini trial and thereby discharging the respondents for the alleged offences.

12. I have heard the learned Additional Public Prosecutor for the State and perused the record.

13. The scope of interference by High Courts while exercising revisional jurisdiction in a challenge to order framing



charge/discharge is well settled. The power ought to be exercised sparingly, in the interest of justice. It is not open to the Court to misconstrue the revisional proceedings as an appeal and reappreciate the evidence unless any glaring perversity is brought to its notice.

14. Since the State has assailed the impugned order whereby the respondents was discharged for the offences under Sections 376/506 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.”

15. The Hon’ble Apex Court in ***Union of India v. Prafulla***



Kumar Samal : (1979) 3 SCC 4, dealt with the scope of enquiry a judge is required to make with regard to the question of framing of charges. Inter alia, the following principles were laid down by the Court:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code 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.

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*(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. **By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.**”*

(emphasis supplied)

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. 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.”

18. 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.



19. The limited question for the determination of this Court is thus whether the learned ASJ rightly discharged the respondents of the alleged offences.

20. The learned ASJ discharged the accused persons after observing that there is no reliable evidence on record to frame charges against the accused persons. It was also observed that the ingredients of the offences were not made out from the facts of the case and all the material aspects of the story of the prosecutrix had been falsified by police investigation. The learned ASJ was particularly weighed by the absence of medical evidence as well.

21. Although it is argued by the prosecution that the learned ASJ has erred in not appreciating the specific allegations made by the prosecution in her statement under Section 164 of the CrPC, in a matter such as this one which is bereft of any corroborating material and is helmed only on the statement of the victim, the Court has to be more circumspect while sifting the evidence on record at the stage of framing of charges, especially when there is significant delay in reporting the incident as well. The version of the victim should at least *prima facie* inspire some confidence. Even though the statement of a victim is to be given predominant consideration and the same can cast grave suspicion, where such a statement is riddled with inconsistencies or improbabilities, the Court is not expected to act as a mouthpiece of the prosecution and to frame charges by turning a blind eye to any apparent infirmities.

22. In the present case, as also noted by the learned ASJ, there



2025:DHC:10890



is undue delay in reporting of the incident. While the alleged incident of rape is stated to have taken place on 08.11.2023, the prosecutrix only made a PCR call in relation to the same on 14.05.2024 after a period of more than six months. No explanation was given by the prosecutrix for lodging the FIR at such a belated stage.

23. Furthermore, the present case is not one where the prosecutrix has claimed that no one else was aware of the incident. The prosecutrix has maintained that she had told about the incident. She has also stated that other people also advised her against initiating action and getting involved in Court matters. In the statement recorded of the owner of the factory under Section 161 of the CrPC, he stated that the prosecutrix had only worked in his factory for a period of 20 days and she had left her job in October, 2023. He stated that on 08.11.2023, the prosecutrix had come to his factory and told him that she was having certain money transactions with Respondent No. 1, however, she did not inform him regarding any incident of sexual assault. As also appreciated by the learned ASJ, no workers who had allegedly advised the prosecutrix to not lodge a complaint against Respondent No. 1 have been enquired or made witnesses in the present case. The absence of any corroboration in this regard further weakens the case of the prosecution.

24. As also noted by the learned ASJ, the prosecutrix repeatedly changed her version of the alleged incident during the course of investigation. It is evident from a perusal of the material on record that the prosecutrix has never been consistent



2025:DHC:10890



with her version of the alleged incident. As per the complaint, the alleged incident took place on 08.11.2023, however, no specific time has been mentioned. On the other hand, in her PCR call, the prosecutrix alleged that the alleged incident of rape had happened on 09.11.2023. In her statement under Section 164 of the CrPC, the prosecutrix failed to give any specific date or time and stated that the alleged incident took place prior to Diwali. The said discrepancies and lack of particulars further dilute any suspicion that is cast from the statement of the prosecutrix. The learned ASJ also rightly noted that the main grievance of the prosecutrix appears to be that Respondent No.1 did not return her money.

25. It is pertinent to note that there is no scientific or forensic evidence regarding the alleged offence either. It is noted by the learned ASJ that although the medical examination of the prosecutrix was conducted, however, none of the exhibits were seized and sent to FSL as she refused internal examination. Even otherwise, considering the significant delay in reporting of the offence, no corroborative medical evidence can be unearthed in the present case to lend credence to the case of the prosecution.

26. It is well-settled that the accused can be convicted solely on the basis of evidence of the prosecutrix as long as same inspires confidence and corroboration is not necessary for the same [Ref. *Moti Lal v. State of M.P.* : (2008) 11 SCC 20], however, in a case such as this one where the testimony of the prosecutrix is riddled with discrepancies and plagued with significant delay, no grave suspicion is attracted so as to warrant framing of charges, especially since the owner of the factory has



2025:DHC:10890



also not supported the prosecution's case and there was a persisting money dispute between the parties as well.

27. Insofar as the charge under Section 506 of the IPC is concerned, the only allegation levelled is that the respondents used to threaten the prosecutrix that they would kill her. 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 harm 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. Even otherwise, as noted by the learned ASJ, although the prosecutrix had initially alleged that she had gone to the home of Respondent No.1 on 16.04.2024 where she was threatened by Respondent No.2, however, she made no mention of the incident in her statement under Section 164 of the CrPC and alleged that Respondent No.1 had come to her house on 17.05.2024 to threaten her. Pertinently, in her statement under Section 164 of the CrPC, the prosecutrix made no specific allegation *qua* threats from Respondent No.2. The bald allegations made by the prosecutrix only casts suspicion as against grave suspicion owing to the manifest discrepancies in the prosecution's case as noted above. It is well-settled that in such a case, the Court has the discretion of discharging the accused.

28. In view of the aforesaid discussion, this Court is of the opinion that there is no grave suspicion for framing charges against the respondents for the offences under Sections 376/506



2025:DHC:10890



of the IPC.

29. There is no infirmity with the impugned order passed by the learned ASJ to warrant any interference by this Court.

30. The present petition is accordingly dismissed. Pending Application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

DECEMBER 1, 2025

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