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

+ **CRL.REV.P. 611/2016&CRL.M.A. 14244/2016**

STATE

.....Petitioner

Through: Mr. Ajay Vikram Singh, APP for the
State.

versus

NEETU VERMA

.....Respondent

Through: Mr. Lalit Luthra, Advocate.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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09.04.2025

1. This hearing has been done through hybrid mode.
2. The present criminal revision petition under Section 397/401 of the Cr.P.C. read with Section 482 of the Cr.P.C. has been filed seeking the following prayers:

“a) Requisition the records arising out of FIR no. 153/14 u/s 323/376/506/509/34 IPC, P.s. Jagat Puri titled as “Neetu Verma Vs. State” etc decided by Sh. Pulastya Pramachala, Hon’ble ASJ, Shahdara District, Karkardooma Courts Delhi;

b) Impugned order dated 09.03.2016 may be varied / modified / set aside upto the extent of order of discharge of accused person Neetu Verma for the offence u/s 323/506 IPC passed by Sh. Pulastya Pramachala, Hon’ble ASJ, Shahdara District, Karkardooma Courts, Delhi;

c) Pass any other orders by this Hon’ble court may deem fit and proper in the interest of justice.”

3. Brief facts of the case are that on the allegations levelled by the complainant, an FIR bearing No. 153/2014 was registered under Sections 376/354/506/323/509 of the IPC at P.S. Jagat Puri. The allegations in the FIR were against one Ajay Sehgal (nephew of the respondent) who had



established physical relations with the complainant on the pretext of marriage, however, later the complainant came to know that the said Ajay Sehgal was married and had cheated her on the pretext of marriage. On 21.01.2014, the complainant had visited the house of Ajay Sehgal, where she had a scuffle with the brother (Paras Sehgal) and father (Ved Prakash Sehgal) of Ajay Sehgal and was allegedly physically assaulted by them. It is also stated that the respondent- Ms. Neetu Verma who is the cousin *Bua* (aunt) of Ajay Sehgal also came there and introduced herself as a Constable in the Delhi Police and had threatened the complainant that she would falsely implicate the complainant if she tried to lodge any complaint against Ajay before the Police. It was further alleged that the respondent had also abused and assaulted the complainant. Thereafter, the complainant visited P.S. Jagat Puri to lodge a complaint on 31.01.2014, and at the time she was threatened by the father of Ajay Sehgal that he would kill the complainant's children if she filed a complaint against them. Subsequently, on 11.03.2014, the case FIR was registered and after the investigation was complete, chargesheet was filed under Sections 376/323/506/509/34 of the IPC against Ajay Sehgal, Ved Prakash Sehgal, Paras Sehgal and the respondent-Neetu Verma on 09.09.2015.

4. *Vide* order dated 05.11.2015, cognizance of the offence was taken and summons were issued against the respondent, and the application filed by the respondent under Section 258 of the Cr.P.C. was dismissed by the learned Trial Court *vide* order dated 30.01.2016. In the said application, the respondent had challenged the fact that she had been named as an accused in the chargesheet despite the allegations levelled against her were only in respect of the offences under Section 323/506 of the IPC



which were non-cognizable in nature. The aforesaid orders dated 05.11.2015 and 30.01.2016 were challenged by way of a revision petition by the respondent before the learned ASJ (Shahdara), Karkardooma Courts, Delhi, whereby the learned ASJ discharged the respondent in the case and set aside the aforesaid orders *qua* the respondent *vide* the impugned order dated 09.03.2016. Therefore, by way of the present criminal revision petition, the impugned order dated 09.03.2016 has been challenged by the prosecution.

5. Learned APP for the State submits that the allegations against the respondent were for the offences punishable under Sections 323 and 506(II) of the IPC, and the learned ASJ has failed to consider that two persons accused of separate offences committed in course of the same transaction may be charged jointly in view of the provision under Section 223(d) of the Cr.P.C. Therefore, the respondent is liable to be tried with the main accused-Ajay Sehgal as the offence committed by the respondent is in continuation of the offence committed by the main accused in the present case.

6. Learned counsel appearing on behalf of the respondent submits that the main accused-Ajay Sehgal has also been discharged in the present case by the learned ASJ on 16.10.2018, and, therefore, no ground is made out *qua* the present respondent.

7. Heard learned counsels for the parties and perused the records.

8. The relevant portion of the impugned order is reproduced as under:-

“Now, coming back to the facts of present case, I find that alleged offence of rape was already complete in December 2013. 10 chargesheeted revisionist along with accused of rape, in respect of an incident taken place on 21.04.2014. Apparently, this incident had not taken place in continuity with



offence of rape. This was altogether a different incident. Simply on the basis of fact that after commission of rape, complainant visited the house of accused Ajay Sehgal, wherein the alleged incident of criminal intimidation, abusing and physical assault took place against the complainant. It cannot be said that the incident of 21.04.2014 had taken place as part of same transaction related to the offence of rape. Therefore, I am in agreement with argument of revisionist that 10 had committed illegality in clubbing two different transactions in same chargesheet. I also find force in the argument that despite being a separate incident, the revisionist was charged with non cognizable offence, though a different procedure was to be adopted by the IO in respect of revisionist i.e. procedure as provided under Section 155 (2) Cr.P.C. This is not a case, where Section 155 (4) Cr.P.C could be invoked so as to club different transaction with the alleged transaction of rape.”

9. In the present case, the respondent was chargesheeted for the offences punishable under Section 323/506/34 of the IPC along with following accused persons namely:-

- i) Ajay Sehgal- who was chargesheeted for the offences under Sections 376/323/506/509/34 of the IPC.
- ii) Paras Sehgal- who was chargesheeted for the offences under Sections 323/506/509/34 of the IPC.
- iii) Ved Prakash Sehgal- who was chargesheeted for the offences under Sections 323/506/509/34 of the IPC.

10. The case of the prosecution was that the present respondent had intimidated and assaulted the complainant when she visited the house of the accused Ajay Sehgal. As noted by the learned ASJ in the impugned order, the offence of rape was alleged to have been committed till December 2013, and the cause of action with respect to the alleged offences committed by the present respondent were to have been committed on 21.04.2014. The learned ASJ while discharging the present applicant, had noted that as per section 218 of the Cr.P.C., there has to be



separate charges for different offences unless the facts and circumstances of the case falls under the exceptions to the aforesaid rule under Sections 219/220/221/223 of the Cr.P.C. The submissions of the State is that the offence committed by the respondent on 21.04.2014 was in continuation to the offence committed by the accused Ajay Sehgal as the complainant had visited the house of aforesaid accused person to inform his family members when the incident took place. Reliance is placed on Section 223(d) of the Cr.P.C.

11. Section 223 of the Cr.P.C provides for circumstances where persons can be charged for offences jointly. Section 223 reads as under:

“223. What persons may be charged jointly.—

The following persons may be charged and tried together, namely:—

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;
- (c) persons accused of more than one offence of the same kind, within the meaning of section 219 committed by them jointly within the period of twelve months;
- (d) persons accused of different offences committed in the course of the same transaction;**
- (e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;
- (f) persons accused of offences under sections 411 and 414 of the Indian Penal Code (45 of 1860) or either of those sections in respect of stolen property the possession of which has been transferred by one offence; (g) persons accused of any offence under Chapter XII of the Indian Penal Code (45 of 1860) relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such



charges:

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the 1 [Magistrate or Court of Session] may, if such persons by an application in writing, so desire, and 2 [if he or it is satisfied] that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.”

(emphasis supplied)

12. The requirement for applicability of the aforesaid provision would be if the persons who are accused of different offences committed during the course of the same transaction. In the present case the offence alleged to have been committed by the respondent cannot be considered to be same as the offence of rape allegedly committed by the accused Ajay Sehgal. The time gap between the two alleged offences would also not bring the case of the prosecution under Section 223 of the Cr.P.C.

13. The offence alleged to have been committed by the respondent cannot be in the course of same transaction as of alleged offence of rape committed by co-accused Ajay Sehgal. In facts of the present case, the incident of 21.04.2014 was distinct from the offence of alleged rape committed by co-accused Ajay Sehgal.

14. Learned ASJ had also concluded that offences under Sections 323/506 of the IPC being non-cognizable in nature the procedure under Section 155(2) of the Cr.P.C was not followed by the Investigating Officer and for that reason also the present respondent was discharged and liberty was given to the prosecution to initiate proceedings after following the procedure as applicable to non-cognizable offences. This Court has also been apprised of the fact the main accused Ajay Sehgal has also been discharged by the learned ASJ *vide* order dated 16.10.2018.



15. In view of the facts and circumstances, this Court finds no reason to interfere with the impugned order dated 09.03.2016 passed by the learned ASJ (Shahdara), Karkardooma Courts, Delhi.

16. The present petition is dismissed and disposed of accordingly.

17. Pending application(s), if any, are also disposed of.

AMIT SHARMA, J

APRIL 9, 2025/kr/sc

Click here to check corrigendum, if any