



2026:DHC:3848



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

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*Judgment reserved on: 27.03.2026**Judgment pronounced on: 05.05.2026**Judgment uploaded on: 08.05.2026*+ **CRL.REV.P. 631/2023 & CRL.M.A. 15164/2023**

SMT NIKHAT AFZA

.....Petitioner

Through: Mohd. Hadis Ansari, Advocate

versus

THE STATE GOVT. 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 present revision petition has been filed impugning the order on charge dated 09.02.2023 [hereafter '*impugned order*'], *vide* which charges were framed against the petitioner for offence under Sections 344/506 of the Indian Penal Code, 1860 [hereafter '*IPC*'] in SC No. 129/2022, arising out of FIR bearing no. 464/2021, registered on 30.07.2021 at Police Station Govindpuri, Delhi, for commission of offences under Sections 376/328/342/506 of the IPC.

2. Briefly stated, the case of the prosecution, is that the complainant/prosecutrix had sent a complaint dated 19.07.2021 to the



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DCP, South-East, Delhi, pursuant to which the present FIR came to be registered. It has been alleged that the prosecutrix, aged about 30 years and a resident of Tughlakabad, New Delhi, had, on 05.12.2008, been travelling from Delhi to Gorakhpur by train to attend a wedding ceremony. During the journey, she came into contact with accused no. 1, Mohd. Ayaz, who had introduced himself as “Rajeev”, along with his friend. It is alleged that at about 02:30 AM, when the prosecutrix had gone to the toilet of the train, accused no. 1 along with his friend had entered the said toilet, where accused no. 1 had forcibly raped her, while his associate had clicked photographs and recorded videos of the incident. Owing to fear of social stigma and harm to her reputation, the prosecutrix did not disclose the said incident to anyone at that time. It is further alleged that on 07.12.2008, while the prosecutrix had been returning from Gorakhpur to Delhi by train, accused no. 1 had again met her and had threatened her to share her mobile number, failing which he would make the aforesaid photographs and videos viral. Under such coercion, the prosecutrix had shared her mobile number with him. The prosecutrix has further alleged that in January 2009, accused no. 1 had called her and asked her to meet him at KFC, Connaught Place, New Delhi, where he had allegedly administered an intoxicant to her in a cold drink. Thereafter, he had taken her to a room and had committed rape upon her against her will and without her consent. It has further been alleged that when the prosecutrix had confronted him, he had



pressured her to convert to Islam. It is also the case of the prosecutrix that on an unspecified date in March 2021, all three accused persons, including petitioner herein i.e. accused no. 2 (stated to be the wife of accused no. 1), along with a *maulvi* and others, had wrongfully confined her for about 20 days at a flat in Jasola, New Delhi, where accused no. 1 had threatened her at gunpoint and had coerced her to convert to Islam, also extending threats to the life of her son. Further, it has been alleged that in the year 2010, accused no. 1 had extorted a sum of ₹1,50,000/- from the prosecutrix by threatening to circulate her photographs and videos. It has also been alleged that on multiple occasions, including during the years 2018 to 2021, accused no. 1 had forced her to undergo abortion against her wishes. It is further alleged that accused no. 1 had repeatedly committed rape upon the prosecutrix, including during her pregnancy, at various locations, including at the house of his friend in Saket, New Delhi, and had continuously threatened her with dire consequences, including threats to her life and that of her family members, as well as the circulation of her photographs and videos, in case she made any complaint.

3. Thereafter, the statement of the prosecutrix had also been recorded under Section 164 of the Cr.P.C. on 03.08.2021 before the learned Magistrate, wherein she had reiterated the allegations as set out in the FIR.

4. Upon completion of investigation, a chargesheet was filed against the petitioner for offences punishable under Sections 342/506



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of the IPC. By way of the impugned order, the learned ASJ (SC-RC), South East District, Saket Courts, Delhi [hereafter '*Sessions Court*'] framed charges against the petitioner (accused no. 2) and accused no. 3, Mohd. Asif, for offences punishable under Sections 344/506/34 of the IPC, whereas charges for offences under Sections 328/376/506/313/344/384 of the IPC were framed against accused no. 1, Mohd. Ayaz. The relevant portion of the impugned order reads as under:

“9.1 In the present case, it is clear that from the complaint dated 19.07.2021 of the prosecutrix made to DCP South East, Delhi as well as her statement dated 03.08.2021 recorded u/s 164 Cr.P.C that the prosecutrix has made specific allegations against the accused persons allegations of the prosecutrix have been narrated in para no. 3 of this order). The prosecutrix has specifically named the accused persons including the accused no. 2 and 3 in her statements/ complaints. The contradictions, if any, in the statements of the prosecutrix can be put to her during her testimony in the Court. The veracity of the allegations leveled by the prosecutrix can only be determined by conducting trial. If for the sake of arguments, it is presumed that statements of some witnesses like Sh. Parmod, property dealer, Dr. Rakhi Gupta and ASI Layak etc. are not supporting the allegations of the prosecutrix, even then, the allegations of the prosecutrix can not be discarded at this stage. It can be ascertained only after conducting the trial as to the evidence of which witness is trustworthy and reliable. It is noted that statement of the prosecutrix u/s 164 Cr.P.C has been recorded by the Ld. MM on oath in the In camera proceedings and in the said statement the prosecutrix has leveled specific allegations against the accused persons and that statement recorded on oath u/s 164 Cr.P.C can not be discarded at this stage merely because there are some contradictions in the statements of prosecutrix or some other prosecution witnesses are not supporting the allegations of the prosecutrix.

10. It is settled law that at the stage of framing of charge, the court is not required to meticulously weigh the evidence and



only a prima-facie view is to be taken.

11. In view of the aforesaid facts and reasons, considering the statements/allegations of the prosecutrix, material available on record i.e. charge-sheet and documents annexed with the charge sheet, *prima-facie* charge **U/s 344/506/34 IPC** is made out against the accused no. 2 and 3 namely Nikhat Afza and Mohd. Asif and charge **u/s 328/376/506/313/344/384 IPC** is made out against the accused no. 1 Mohd. Ayaz.”

5. The charge framed against the petitioner and co-accused Mohd. Asif reads as under:

“Firstly, one unknown day in the month of March 2021, both of you the aforementioned accused alongwith co-accused Md. Ayaz and some other person in furtherance of your common intention, forcibly kept prosecutrix (*Name, parentage and address of the prosecutrix have been withheld in order to protect her identity*) in confinement for about 20 days in Flat no. B-488, DDA Flat, 3 Floor, Pocket-11, Jasola, New Delhi, within jurisdiction of PS Govindpuri, where your co-accused Md. Ayaz threatened the prosecutrix on the point of revolver for the life of the son of prosecutrix for converting her into Islam religion and thereby you committed offences punishable **u/s 344/506/34 IPC** and within the cognizance of this Court.”

6. The learned counsel appearing for the petitioner contends that the learned Trial Court has failed to appreciate material contradictions in the statements of the prosecutrix. It is submitted that the prosecutrix had initially filed a complaint against accused no. 1 on 17.05.2021 at Police Station Shaheen Bagh, followed by another complaint dated 30.05.2021 at Police Station Govindpuri. In both these complaints, she had alleged that she was wrongfully confined for about 22 days in May 2021 at a flat in Jasola, Delhi, by accused no. 1 and certain other persons; however, no allegations were levelled



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against the present petitioner in those complaints. It is further argued that an inquiry in this regard was conducted by ASI Layak Ali of Police Station Sarita Vihar, within whose jurisdiction Jasola falls, who had submitted an inquiry report dated 06.07.2021. In the said report, it was opined that, on the basis of CDR analysis of the mobile numbers of the prosecutrix and the accused, as well as the statement of a property dealer, no such incident had taken place within the jurisdiction of Police Station Sarita Vihar. It is contended that the learned Trial Court has failed to consider the said inquiry report.

7. The learned counsel further submits that the statements of Sh. Parmod (property dealer), Dr. Rakhi Gupta, and ASI Layak Ali, all recorded under Section 161 of Cr.P.C., as well as the reply furnished by Dr. R. Kanta pursuant to notice under Section 91 of Cr.P.C., along with the CDR location chart, do not support the case of the prosecution against the petitioner. It is further contended that the chargesheet against the petitioner has been filed solely on the basis of the allegations made by the prosecutrix in her complaint dated 17.05.2021 and her statement recorded under Section 164 of Cr.P.C., without any independent corroboration. The learned counsel also submits that a compromise had been effected between the prosecutrix and the husband of the petitioner *vide* compromise application dated 01.06.2021, for withdrawal of the complaint dated 30.05.2021 lodged at P.S. Govindpuri. Thereafter, the prosecutrix had filed another complaint dated 08.06.2021 seeking reopening of the earlier



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complaint, and subsequently lodged the present complaint dated 19.07.2021, leading to registration of the present FIR.

8. It is further argued that the petitioner is a medical practitioner (Gynecologist) and has a five-year-old son, and that accused no. 1, her husband, had allegedly been in a consensual relationship with the prosecutrix from November 2008 till April 2021. It is submitted that the petitioner had married accused no. 1 in the year 2012, had completed her MBBS from a foreign country in 2016, and had come to know about the alleged relationship between her husband and the prosecutrix only in April 2021. On the basis of the aforesaid circumstances, it is argued that the petitioner has been falsely implicated in the present case at the instance of the prosecutrix, in order to exert pressure upon her husband for monetary settlement, as is evident from the compromise application dated 01.06.2021 and the undertaking given by the husband of the petitioner regarding payment of housing loan EMIs for the prosecutrix. Lastly, it is contended that the offence under Section 344 of IPC presupposes the commission of wrongful confinement as defined under Section 340 of IPC, which, according to the petitioner, is not made out in the present case. It is, therefore, prayed that the impugned order be set aside.

9. On the other hand, the learned APP appearing for the State opposes the present petition and submits that the impugned order has been rightly passed by the learned Sessions Court. It is contended that the prosecutrix, in her complaint dated 19.07.2021 as well as in



her statement recorded under Section 164 of Cr.P.C., has made specific and categorical allegations against the accused persons, including the present petitioner, which clearly disclose the commission of the alleged offences. It is further submitted that at the stage of framing of charge, the Court is only required to form a *prima facie* view on the basis of the material on record, and is not expected to conduct a meticulous appreciation of evidence. Any alleged contradictions in the statements of the prosecutrix or other witnesses cannot be examined at this stage and are matters to be tested during trial. It is, therefore, prayed that the present petition be dismissed.

10. This Court has **heard** arguments addressed on behalf of the petitioner as well as the State, and has perused the material available on record.

11. The allegations against the present petitioner, as emerging from the record, may first be noted. In the FIR, the prosecutrix has alleged that in March 2021, accused no. 1 had taken her to a flat at Jasola, where the present petitioner (wife of accused no. 1), co-accused Mohd. Asif, and a *Maulvi* were present. It has been alleged that all of them had pressurized her to wear a *burkha* and convert to Islam, and upon her refusal, accused no. 1 had threatened her with a revolver, including threats to the life of her son. It is further alleged that she was made to mislead her husband by stating that she was hospitalized due to COVID-19, and was wrongfully confined in the said flat for about 20 days, during which she was continuously



pressurized to convert to Islam.

12. Similarly, in her statement recorded under Section 164 of Cr.P.C., the prosecutrix has, in substance, reiterated the said allegations, though referring to the period as April 2021. She has stated that accused no. 1 had taken her from outside her office to the said flat at Jasola, where his wife (the present petitioner), Mohd. Asif, and a *Maulvi* were present. It has been alleged that she was beaten and coerced to accept Islam and marry accused no. 1, that a false COVID report was sent to her husband to justify her absence, and that she was kept confined there for about 20–22 days and subjected to physical assault and pressure to convert.

13. This Court has considered the contention of the learned counsel for the petitioner that she ought to be discharged on the basis of the statements of certain witnesses, including Dr. Rakhi Gupta, Sh. Pramod Kumar (property dealer), and ASI Layak Ali, recorded under Section 161 of Cr.P.C., which allegedly contradicts the version of the prosecutrix qua the present petitioner. *However*, this Court is of the opinion that the truthfulness or otherwise of the statements of these witnesses cannot be conclusively determined at this stage. The evidentiary value of such statements can only be tested after the witnesses are subjected to cross-examination during trial, and their testimonies are appreciated in the overall factual matrix of the case, and not in isolation.

14. As regards the contention that the learned Sessions Court has



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ignored the inquiry report dated 06.07.2021 submitted by ASI Layak Ali, it is noted that the said inquiry pertained to allegations of wrongful confinement in May 2021, in respect of which CDR analysis was conducted. However, in the present FIR and the statement under Section 164 of Cr.P.C., the allegations of confinement relate to the period of March–April 2021. Thus, the said inquiry report, which is confined to a different time period, cannot, by itself, be a ground to discredit the prosecution case or to discharge the petitioner at the stage of framing of charge.

15. It is well-settled that at the stage of framing of charge, the Court is only required to ascertain whether a *prima facie* case is made out, and not to conduct a meticulous appreciation of evidence. In this regard, the Hon'ble Supreme Court in ***Hazrat Deen v. State of Uttar Pradesh***: 2022 SCC OnLine SC 1781 has held that an accused, particularly in cases involving allegations of sexual assault, cannot be discharged merely on the ground of discrepancies in the FIR and the statement under Section 164 of Cr.P.C., as such inconsistencies are matters for trial.

16. In the present case, the prosecutrix has specifically named the petitioner and attributed a role to her in the alleged wrongful confinement, and criminal intimidation. The said allegations, as contained in the FIR and reiterated in the statement under Section 164 of Cr.P.C., are sufficient, at this stage, to give rise to a *prima facie* case for the offences for which charge has been framed.



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17. In view of the aforesaid, this Court is of the opinion that the impugned order passed by the learned Sessions Court does not suffer from any illegality, perversity, or infirmity warranting interference in exercise of revisional jurisdiction.

18. The present petition is accordingly dismissed. Pending application also stands disposed of.

19. At the same time, it is clarified that the observations made herein are only for the purpose of deciding the present petition at the stage of charge. The petitioner shall have full opportunity during trial to cross-examine the prosecutrix and other prosecution witnesses, and to lead evidence in her defence, and all such evidence shall be considered and appreciated by the learned Trial Court in accordance with law, uninfluenced by any observations made in the present order.

20. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 05, 2026/zp/A

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