

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

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Judgment delivered on:27.01.2025

+ **CRL.REV.P. 1203/2019**

X

.....Petitioner

Through:

versus

STATE & ORS.

.....Respondents

Through:

Advocates who appeared in this case:

For the Petitioner :Ms. Sunita Arora, Advocate (DHCLSC)
alongwith Petitioner-in-Person.

For the Respondent : Mr. Naresh Chahar, APP for the State.
Mr. Chirag Jamwal, Advocate (Through
V.C.) with Mr. Ajit Amar & Mr. Akashdeep
Kakkar, Advocates for Respondent No.2 to
5.
SI Mukesh Kumari (P.S. R.K. Puram).

CORAM**HON'BLE MR JUSTICE AMIT MAHAJAN****JUDGMENT**

1. The present petition is filed challenging the order dated 20.08.2019 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge-Special FTC ('**ASJ**'), Patiala House Courts,



New Delhi, pursuant to which Respondent Nos. 2 to 5 were discharged in SC No. 306/2019 arising out of FIR No. 39/2019 dated 31.01.2019, registered at Police Station RK Puram, for the offences under Sections 376/ 506 of the Indian Penal Code, 1860 ('IPC').

Brief Facts

2. Briefly stated, a complaint dated 11.05.2018 was filed by the petitioner with the Delhi Commission for Women, alleging that one Mahesh/accused No.1, physically exploited the petitioner for 13-14 years on the false pretext of marriage.

3. It was alleged therein that the accused Mahesh took the petitioner to the house of Respondent No. 5 in Tughlakabad, claiming that he was the brother of the accused Mahesh and that he would help in convincing the family in regard to their marriage, however, upon reaching the said house, the petitioner realized that Respondent No. 5 was not the brother of the accused Mahesh. It is alleged that Respondent No. 5 left the petitioner and the accused Mahesh at his house and went away to fetch milk after locking the house from outside, when the accused Mahesh forcefully established sexual relations with the petitioner and inflicted internal and external injuries upon her.

4. It was alleged that the accused Mahesh refused to marry the petitioner on the pretext that Respondent Nos. 2 and 4, who are the brother and mother of the accused Mahesh, are refusing to let him marry the petitioner and that Respondent No. 2, due to personal vengeance with the accused Mahesh, is causing rift between them, and



has threatened Mahesh of dire consequences, in the event he marries the petitioner. It was further stated in the said complaint that Respondent Nos. 2 and 3 threatened the petitioner and her father of dire consequences if any legal action is taken by them. Respondent No.3 is the friend of the accused Mahesh.

5. The MLC of the petitioner was conducted on 30.01.2019, wherein no external injury was found and there was no need for medical or surgical intervention, however, it has been stated therein by the petitioner that the accused Mahesh took her to the house of Respondent No. 5 in the year 2015, who locked the house from outside, when the accused Mahesh forcefully established sexual relations with her.

6. On 31.01.2019 the FIR No. 39/2019 was registered under Sections 376/506 of the IPC, wherein it was alleged that in the year 2007, the accused Mahesh called the petitioner at Papad Wali Gali, Ambedkar Basti on the pretext of helping her find a job, however he forcefully established sexual relations with her, and threatened her of dire consequences if she shared the information about the alleged incident with anyone.

7. Consequently, the statement of the petitioner was recorded under Section 164 of the Code of Criminal Procedure, 1973 ('CrPC') on 01.02.2019, wherein she narrated the incidents in regard to the accused Mahesh, since the year 2007. The petitioner stated that she confronted Respondent No. 4 regarding the sexual acts committed by her son, but instead of correcting her son, she threatened the petitioner



of dire consequences if anything were to happen to Mahesh. She also narrated the incident that took place at the house of Respondent No. 5 allegedly in the year 2015, when she was forced to establish sexual relations with the accused Mahesh and was beaten by him, whereafter Respondent No. 5 asked the accused Mahesh “*is the work done?*” to which he replied “yes”. She further stated that on filing the complaint dated 11.05.2018, Respondent Nos. 2 and 3 threatened to kill her and her father, due to which the petitioner even attempted to commit suicide.

8. The petitioner sent a letter dated 15.02.2019, addressed to the Delhi Commission for Women stating therein that the Investigating Officers are connected with the accused persons and therefore they are not conducting the investigation in a proper manner. She further stated that she is in fear of Respondent Nos. 2 to 5, the accused Mahesh and one Kamal, due to which she has not been able to step out of her house.

9. The supplementary statement of the petitioner was recorded on 03.09.2019, wherein she has stated that Respondent Nos. 2 and 3 threatened her father of dire consequences in the event, any legal action was taken against the accused Mahesh, due to which her father was admitted in the ICU for several days.

10. Subsequently, the chargesheet was filed by the Investigating Officer under Sections 376/506/120B/195A of the IPC, against the accused Mahesh and Respondent Nos. 2 to 5, on 30.05.2019. One day after the chargesheet was filed, the petitioner filed a complaint dated



01.06.2019 with the SHO, PS RK Puram, stating therein that she and her father were being harassed and pressurised by the accused Mahesh and Respondent Nos. 2 to 5 to withdraw the complaint filed by her.

11. The learned ASJ, while framing charges against the accused - Mahesh, discharged Respondent Nos. 2 to 5, by the impugned order dated 20.08.2019, on the ground that the evidence collected by the prosecution *qua* them, were not sufficient to make out a *prima facie* case.

12. Being aggrieved by the same, the petitioner has filed the present petition, challenging the impugned order to the extent of discharge of Respondent Nos. 2 to 5.

13. The learned counsel for the petitioner submitted that the impugned order is erroneous and has been passed without appreciating the evidence placed on record by the petitioner and without adequately considering the gravity of the offence committed against the petitioner.

14. He submitted that the learned ASJ erred in concluding that the petitioner was a consenting party since the accused Mahesh obtained her consent by giving false promise of marriage, whereas the petitioner never consented to the physical relations established between them.

15. He submitted that previously, this Court, by order dated 05.04.2019, while dismissing the bail application of the accused Mahesh observed as under:

“upon hearing and on perusal of the FIR, statement of the petitioner recorded U/s. 164 Cr.P.C. and decisions cited, it appears that the petitioner was not a consenting party and she was forced to establish sexual relations with Mahesh and the accused



Mahesh had been misguiding her and was giving false hope to her in all these years...."

16. He submitted that Respondent Nos. 2 to 5 have aided and encouraged the acts of the accused Mahesh and therefore the learned ASJ has erroneously discharged them.

17. He submitted that the learned ASJ erred in observing that the allegations levelled by the petitioner against Respondent Nos. 2 to 5 are vague, as the learned ASJ has not appreciated the contents of the complaint dated 11.05.2018, the statement of the petitioner under Section 164 of the CrPC, and the MLC of the petitioner wherein she has levelled specific allegations against them.

18. He argued that the Investigating Officer is hand in glove with the accused persons and had instructed the petitioner to not disclose the incidents from the year 2015 in regard to Respondent No. 5, in her statement under Section 164 of the CrPC.

19. It is submitted that the Investigating Officer has not filed the relevant documents in the chargesheet, such as the complaint filed by the petitioner with Delhi Commission for Women and that even the contents of the FIR were manipulated by the Investigating Officer and the same is not the version of the petitioner. The learned counsel further submitted that the petitioner has been kept in dark about the entire proceedings.

20. He relies on the judgements passed by the Hon'ble Apex Court in ***State of Maharashtra v. Som Nath Thapa* : (1996) 4 SCC 659** and ***Chitresh Kumar Chopra v. State (NCT of Delhi)* : (2009) 16 SCC 605**, wherein the Hon'ble Apex Court observed that if on the basis of



material on record, it is seen that an offence is a probable consequence, the case of framing of charge exists, however, for conviction, the conclusion is required to be that the accused *has* committed the offence.

21. *Per Contra*, the learned counsel for Respondent Nos. 2 to 5 submitted that the present petition filed by the petitioner is vexatious and baseless, and that the impugned order has been passed after appreciation of the evidence and the law.

22. He submitted that Respondent Nos. 2 to 5 have been falsely implicated in the present case as they are the relatives, friend and colleague of the accused Mahesh. He submitted that they have nothing to do with the alleged offence, as is evident from a bare perusal of the FIR filed by the petitioner.

23. It is submitted that the petitioner has made several improvements in her statement under Section 164 of the CrPC, as well as in her supplementary statements, and the same is not in consonance with the contents of the FIR.

24. The learned counsel further argued that Respondent Nos. 2 to 5 have been discharged in the matter and have no reason to invite unnecessary trouble for themselves by threatening and intimidating the petitioner. He submitted that the petitioner has not filed a single piece of evidence in support of her allegations, and has merely implicated Respondent Nos. 2 to 5 in a vengeful manner.



Analysis

25. At the outset, it is relevant to note that 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, so as to not impede the trial unnecessarily.

26. Since the petitioner has assailed the impugned order whereby the respondents were discharged for the offences under Sections 506/120B 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.”

27. 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)

28. 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)



29. In ***State of Gujarat v. Dilipsinh Kishorsinh Rao*** : 2023 SCC OnLine SC 1294, 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.”



30. 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.

31. It is the contention of the petitioner that the discharge of Respondent Nos. 2 to 5 was erroneous and unsupported by evidence. However, upon a meticulous review of the facts, evidence, and arguments presented, the impugned order aligns with established legal principles and requires affirmation. The petitioner alleged that Mahesh, the primary accused, allegedly sexually exploited the petitioner over 13–14 years under the false promise of marriage. In 2015, Mahesh allegedly took the petitioner to the house of Respondent No. 5, who locked the house from outside, enabling Mahesh to sexually assault the petitioner. Respondent Nos. 2 and 4 were accused of refusing Mahesh's marriage proposal to the petitioner and threatening her with dire consequences. Respondent Nos. 2 and 3 allegedly intimidated the petitioner and her father to withdraw complaints.

32. The petitioner alleged that the respondents acted in concert with Mahesh, aiding and abetting his acts, and creating a hostile and threatening environment.



33. Respondent No.5 (Alleged Facilitator in the 2015 incident) -

The petitioner accused Respondent No. 5 of facilitating her sexual assault in 2015 by locking her in his house with Mahesh. However, this claim is merely based on the petitioner's statement and lacks corroborative evidence. There are no witnesses or evidence to corroborate the petitioner's assertion that Respondent No. 5 left the house intentionally or was aware of Mahesh's intentions. Respondent No.5 alleged statement, '*kaam hogaya*', is cited for his awareness of the alleged incident. However, this statement, at best, indicates after-the-fact knowledge rather than active involvement.

34. The learned ASJ rightly noted that the petitioner's statements regarding the 2015 incident are inconsistent. She first mentioned it in her statement under Section 164 of the CrPC, years after the alleged event, raising questions about its credibility. It was noted that the petitioner has also not made complaint *qua* the said incident to any other person.

35. The petitioner accused Respondent Nos. 2 and 3 of criminal intimidation, alleging in her supplementary statement dated 03.05.2019 that they threatened her father with dire consequences if any legal action was taken against Mahesh. However, these allegations are unsubstantiated. The petitioner failed to mention these allegations in her initial complaint and statement recorded under Section 164 of the CrPC before the learned Metropolitan Magistrate. The learned ASJ rightly observed that no explanation was provided for this delay or omission, which casts doubt on the authenticity of these claims.



36. Further, the Investigating Officer did not collect any documentary or medical evidence to corroborate the petitioner's claim that her father was hospitalized due to the alleged threats. The petitioner's allegation against Respondent Nos. 2 and 3 appear to be rooted in animosity toward Mahesh's family rather than any concrete actions taken by these respondents. Disapproval of the petitioner's relationship with Mahesh, even if true, does not constitute criminal intimidation under Section 506 of the IPC.

37. The petitioner alleged that Respondent No. 4 (Mahesh's mother) threatened her when she confronted her about Mahesh's actions. However, this allegation remains vague and unsubstantiated. Even if Respondent No. 4 opposed the petitioner's relationship with Mahesh, such disapproval does not amount to criminal intent or actionable intimidation.

38. 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 alarm 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.

39. The Hon'ble Apex Court in the case of ***Manik Taneja v. State of Karnataka : (2015) 7 SCC 423***, quashed the FIR registered against the appellant therein under Sections 353/506 of the IPC and held as under:



“11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. “Criminal intimidation” as defined in Section 503 IPC is as under:

“503.Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.”

A reading of the definition of “criminal intimidation” would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of “criminal intimidation”. The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of the appellants posting a comment on Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.”



40. The learned ASJ's observations regarding the petitioner's allegations against Respondent Nos. 2 to 5 are well-founded. The evidence on record does not substantiate the claims of facilitation, conspiracy, or criminal intimidation. The petitioner's delayed and inconsistent statements, coupled with the absence of corroborative evidence, justify the discharge of Respondent Nos. 2 to 5. The trial court's decision to proceed solely against Mahesh, where sufficient evidence exists, ensures that justice is pursued without implicating individuals against whom a *prima facie* case cannot be made.

41. The petitioner claimed to have lodged several complaints against Respondents No. 2–5 with various authorities, including the DCW and police. However, despite alleging serious offences, no formal complaint against Respondents No. 2–5 was filed in court prior to the present revision petition. This omission raises doubts about the credibility of the petitioner's allegations. The DCW complaints referenced general harassment but did not provide sufficient specificity or evidence implicating Respondents No. 2–5 in the alleged offenses.

42. The petitioner accused the IO of bias and misconduct, alleging that the officer misrepresented facts and manipulated her statements. However, an objective review of the interaction records and investigation placed before this court reveals the advisory role of the IO. The transcript of the recording *prima facie* show that the IO provided procedural guidance to the petitioner rather than misleading or coercing her. This undermines the claim of misconduct by the IO.



The FIR was ultimately registered after the petitioner's interaction with the DCW and subsequent complaints.

43. Notably, the petitioner's story is plagued with infirmities that it does not raise grave suspicion against Respondent Nos. 2 – 5 and the material on record does not point towards commission of the alleged offence.

44. As discussed above, the learned Trial Court has evidently applied its judicial mind and considered the totality of the facts before discharging Respondent Nos.2 – 5 of the alleged offences in light of the absence of grave suspicion against them.

45. Considering the aforementioned facts, no ground is made out to warrant any interference in the impugned order.

46. The present petition, along with the pending applications, are dismissed in the aforesaid terms.

AMIT MAHAJAN, J

JANUARY 27, 2025