



2025:DHC:11510



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

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*Date of Decision: December 16<sup>th</sup>, 2025*

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**CRL.REV.P. 691/2023 & CRL.M.A. 16862/2023**

DAYA NAND

.....Petitioner

Through: Mr. Sahil Malik and Mr.  
Aditya Jain, Advs.

versus

THE STATE (GOVT. OF NCT OF  
DELHI())

.....Respondent

Through: Mr. Sunil Kumar Gautam,  
APP for the State with SI  
Nisha, PS Mohan Garden  
and SI Sunita.

Ms. Tanya Agarwal, Mr.  
Krishna Kumar Keshav  
and Mr. Ankush Khanna,  
Advs. for R-2 with R-2 in  
person.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**AMIT MAHAJAN, J. (Oral)**

1. The present petition has been filed under section 397/401 read with sections 482 of the Code of Criminal Procedure, 1973, ('CrPC') seeking setting-aside of the order dated 13.03.2023 ('impugned order'), passed by the learned Additional Sessions Judge ('ASJ'), whereby charges for the offences under sections 376(2)(n)/506/509 of the Indian Penal Code, 1860 ('IPC') have been framed against the Petitioner.

2. Succinctly stated, the FIR dated 24.10.2021, was registered under sections 376/506/509 of the IPC, at the behest of the prosecutrix stating that she is a divorcee, separated *vide*



personal settlement, and has been residing with her parents. The parents of the prosecutrix, saw the ID of the accused/Dayanand at Jeewansathi.com, who also had his marital status as “*Divorcee*”. The accused also invited the parents of the prosecutrix to his home and had also visited her house, by introducing himself as a Divorcee to the prosecutrix as well as her parents. Allegedly the prosecutrix and the accused developed a bond and started talking to each other.

3. It is alleged that on 22.06.2021, the accused, on a false promise to get the admission of the daughter of the prosecutrix, booked OLA Cab for the prosecutrix for Sector-85 Gurgaon and then picked her from there in his own car, took the prosecutrix to a room in an unknown place and forcibly established sexual relations with her, and then made a false promise to marry her.

4. It is alleged that on 30.06.2021, the accused made a false promise that he will marry the prosecutrix in a temple and then the accused again took the prosecutrix in his car to DLF New Town Height, Sector-91, Gurugram, Manesar, Haryana, to his house, when no one from his family members was present at that time. He again promised the prosecutrix that he will marry her after the lockdown and enticed her by extending false promises to marry and committed rape upon the prosecutrix.

5. It is alleged that on 06.07.2021, the accused picked the prosecutrix in his car from her home, and offered her a cold drink containing some intoxicating substance. After consuming the same the prosecutrix felt dizzy and the accused took her to OYO S. Gambhir Guest House, where he promised to marry her before



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16.07.2021 and then established physical relations with her. It is alleged that even on a prior date i.e. 07.05.2021, the accused had promised to marry the prosecutrix, but he kept delaying the same.

6. It is further alleged that the accused stopped picking the calls of the prosecutrix and hence, the accused deceived the prosecutrix only for physical exploitation and never had any intentions to marry her.

7. The prosecutrix was medically examined on 24.10.2021 *vide* MLC no. 335/21 at Deen Dayal Upadhyay Hospital, Hari Nagar, New Delhi, wherein she has given the description of the alleged incident to the doctor.

8. The statement of the prosecutrix under section 164 of the CrPC was recorded wherein she essentially stated that she met accused on JeevanSaathi.com, where he claimed to be divorced. He visited her house, agreed to marry her, and fixed the marriage for 07.05.2021, pursuant to which her family also made wedding arrangements and even booked the banquet hall. However, on 03.05.2021, the accused refused to marry her citing opposition from his father, yet continued to remain in contact with her, assuring her of marriage and luring her on various pretexts. On different occasions thereafter, Dayanand took her to locations in Gurugram, his house, and an OYO hotel, on the false promise of marriage, where he allegedly forced himself upon her and established sexual relations without her consent. On one occasion, she also claimed to have been given a cold drink after which she felt dizzy. Subsequently, the accused avoided her calls and messages and later disclosed that his divorce was not



finalised, hence, suggesting that all the promises of marriage were false. He also criminally intimidated the mother of the prosecutrix with dire consequences and also used filthy/abusive language towards her with an intention to outrage her modesty.

9. The accused was arrested on 25.10.2021 and upon completion of the investigation, the charge-sheet and the supplementary chargesheet was filed.

10. *Vide* the impugned order, the learned ASJ framed charges against the accused for the offences punishable under Sections 376(2)(n), 506 and 509 of the IPC, observing that a *prima facie* case was made out and that there existed a strong suspicion of the accused having committed the alleged offences, thereby furnishing sufficient ground for proceeding against him.

11. Aggrieved the present petition has been filed by the accused, assailing the above-mentioned order.

12. The learned Counsel for the Petitioner/accused submits that the impugned order on charge is liable to be set aside as, at the time of the alleged incidents, the prosecutrix was already married. Consequently, there could not have been a promise of marriage to another person.

13. He further submits that the prosecutrix's first marriage had not been dissolved on the relevant dates.

14. He further submits that the prosecutrix, despite having a subsisting marriage, was in an adulterous relationship with the Petitioner and had voluntarily engaged in physical relations with him on several occasions.

15. *Per contra*, the learned counsels for the Respondents



have vehemently opposed the petition and submits that the order is well-reasoned and merits no interference. It is submitted that at the stage of framing of charges, the court is only tasked with evaluating the material and documents on record with a view to find if the facts, when taken at face value, disclose ingredients of an offence and the Court is not required to assess the evidence placed on record in detail.

### Analysis

16. 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 reappraise the evidence unless any glaring perversity is brought to its notice.

17. At this juncture, 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.”*

18. 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)

19. The Hon'ble Apex Court in the case of ***State of Gujarat v. Dilipsinh Kishorsinh Rao*** : 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.”

(emphasis supplied)

20. 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. Though, for the purpose of conviction, the same must be proved beyond reasonable doubt.

21. In the present case, a bare perusal of the FIR, the statement of the prosecutrix under Section 164 CrPC, the narration of the incident in the medical record, and the contents of the charge-sheet, when taken at face value, disclose specific allegations of repeated sexual assault on the prosecutrix on the false pretext of marriage, coupled with allegations of intimidation and use of abusive language. The allegations are supported by particulars as



to dates, places and manner of commission of the alleged offences.

22. The learned ASJ has taken note of the specific allegations levelled by the prosecutrix in her complaint, that the accused had projected himself as a divorcee on JeevanSathi.com, had met her parents, visited her residence, and developed a relationship with her on the representation that he was legally eligible and willing to marry her. It is also noted that on multiple occasions, the accused allegedly took the prosecutrix to different locations in Gurugram and, on the false assurance of marriage and other inducements, established sexual relations with her without her consent.

23. Pertinently, the prosecutrix has alleged three distinct incidents of rape on the false pretext of marriage dated 22.06.2021, 30.06.2021 and 06.07.2021, apart from an earlier promise of marriage made on 07.05.2021. The prosecutrix has also consistently deposed that she was administered an intoxicating substance prior to the incident dated 06.07.2021, and then subsequently raped in an OYO guest house, which has also been specifically adverted to in the impugned order.

24. Further, the narration of the incidents as recorded in the MLC reflect that she categorically stated that the accused met her through JeevanSathi.com, developed a relationship with her, met her parents and even fixed a date for their marriage but after forcefully establishing sexual relations with her on 22.06.2021, 30.06.2021 and 06.07.2021, he has blocked her and is avoiding her calls and messages.



25. Even the statement of the prosecutrix under Section 164 CrPC, recorded before the learned Magistrate, is consistent with the substance of the allegations in the FIR, with specific allegations of criminal intimidation and use of abusive and filthy language towards the prosecutrix with intent to outrage her modesty and further details of the incident of 03.05.2021, when the accused called-off their marriage which was scheduled for 07.05.2021 and all the arrangements had been made by the parents of the prosecutrix.

26. The defence of the Petitioner that both parties had subsisting marriages at the relevant time and the same would only reflect a consensual adulterous relationship, is a subject matter of trial which cannot be decided conclusively at this stage.

27. Pertinently, the accused does not dispute that he maintained a profile on JeevanSathi.com, a matrimonial platform meant for persons looking for prospective partners for marriage. Even, the contents of the “About” section of his profile, reads as *“I want to a widow and divers Lady with child and without any child and I wanted to marriage. Any cast age limit 35 years old”*, which expressly indicates his inclination to marry, *prima facie* demonstrate that he portrayed himself as available and willing to enter into a marital relationship. He has further not disputed his relationship with the prosecutrix and their physical involvement.

28. These circumstances, at this stage, lend support to the allegation that the accused held himself out as legally competent and willing to marry and also established physical relations with her, which forms the substratum of the prosecution case.



29. From the material placed on record, it *prima facie* emerges that the accused had projected himself as a divorcee and legally competent to marry, both on the matrimonial website as well as before the prosecutrix and her parents, which forms the very foundation of the allegation of deception and admittedly established physical relations with her. Whether such representation was false from inception and whether the prosecutrix acted upon the same and whether the parties were in an adulterous relationship, are matters to be tested at trial.

30. As regards the marital status of the prosecutrix, the supplementary charge-sheet discloses that her marriage stood dissolved by way of a customary divorce arrived at through a panchayat decision, which was duly recorded on a notary stamp paper, as her husband was not in a position to appear before the court. In further substantiation thereof, a divorce deed executed by mutual consent has also been placed on record. In any event, the existence or otherwise of a prior marriage of either party, and its legal effect on the allegations of consent, are mixed questions of fact and law which cannot be conclusively adjudicated in revisional proceedings and become a subject matter of trial.

31. In view of the foregoing, in the opinion of this court, the impugned order rightly records that there exists a strong suspicion of the accused having committed the alleged offences and the material on record discloses sufficient grounds for proceeding against the accused for the offences under Sections 376(2)(n), 506 and 509 IPC.

32. Consequently, this court finds no reason to interfere with



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the impugned order.

33. The present petition is dismissed, along with pending application(s), if any.

**AMIT MAHAJAN, J**

**DECEMBER 16, 2025**

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