



2025:DHC:8409



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 22.09.2025

+ **CRL.M.C. 2300/2020**

KHALIL SARVAR

.....Petitioner

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Rajat Aneja, Mr. Saubhagya Chauriha and Mr. Aditya Sharma, Advs.

For the Respondents : Ms. Kiran Bairwa, APP for the State for the State with Insp. Sandeep Kumar, PS Madhu Vihar, Delhi.

Mr. Binay Kumar, Ms. Anshu Priyanka, Mr. Aaditya, Ms. Shweta Kumari, Ms. Pallavi Tiwari and Ms. Shikha, Advs. for R-2/Prosecutrix.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed seeking quashing of FIR No. 190/2019 ('FIR') dated 05.09.2019, registered at Police Station Madhu Vihar, for the offences under Sections 376/506 of the Indian Penal Code, 1860 ('IPC').

2. The brief facts of the case are as follows:



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2.1. On 05.09.2019, the FIR was registered on the basis of the statement of the prosecutrix stating she is a Director of Holiday Connection Pvt. Ltd. Company and the petitioner, who is an acquaintance of her husband, used to frequent the office of the prosecutrix as well. In June, 2019, the petitioner allegedly put his hand on the hand of the prosecutrix in her office and told her that they should go for a stroll. The prosecutrix allegedly told the petitioner that she was not expecting this from him, on which, he apologized and told her that he will not repeat the mistake. The prosecutrix communicated about the incident to her husband, but he told her that the petitioner must have touched her hand by mistake and the matter is over as the petitioner has tendered an apology. It is alleged that pursuant to the incident, the prosecutrix became more vigilant towards the petitioner.

2.2. On 23.07.2019, the petitioner called the prosecutrix and on finding out that she was at her home, he came there. Allegedly, when the prosecutrix opened the door to her home, the petitioner forcibly came inside her house and closed the door. The petitioner allegedly threatened the prosecutrix with a gun to comply with whatever he said. It is alleged that the petitioner raped the prosecutrix in her room and removed the shorts that the prosecutrix was wearing. When the prosecutrix started weeping, the petitioner allegedly told her that he had his eyes on her from a long time. Thereafter, the petitioner started abusing the prosecutrix, slapped her and raped her on gunpoint. The petitioner allegedly clicked nude photographs of the prosecutrix and threatened to upload the photographs, whereafter, he left the house.



The prosecutrix did not tell anyone about the incident out of fear. On 30.07.2019, the petitioner called the prosecutrix out of her office and threatened to share her nude photographs on social media if she did not continue relations with him. The petitioner allegedly also called the prosecutrix repeatedly and compelled her to go out with him. Eventually, the prosecutrix stopped picking the calls of the petitioner and told everything to her husband, whereafter a complaint was given to the police which led to the registration of the subject FIR.

2.3. In November, 2019, charge sheet was filed against the petitioner for the offences under Sections 376/354B/506 of the IPC.

2.4. Aggrieved by the same, the petitioner preferred the present petition.

2.5. During the pendency of the proceedings, in the year 2022, supplementary charge sheet was filed and it was found that the allegations levelled by the prosecutrix were not substantiated by technical/ scientific or medical evidence.

3. The learned counsel for the petitioner submitted that there is no cogent material to corroborate the vague allegations made by the prosecutrix and the case against the petitioner is baseless and false. He further submitted that the allegations are improbable. He submitted that it is settled law that if the proceedings appear to be manifestly frivolous or false, it is incumbent upon the Court to quash the proceedings to secure the ends of justice.

4. He submitted that the company where the prosecutrix works only came into existence on 10.07.2019, which belies the allegations



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made in regard to the incident that apparently took place at the prosecutrix's office in June, 2019. He submitted that it is mentioned in the chargesheet that it was found that no arm license has been issued in favour of the petitioner which further renders the allegation of the petitioner raping the prosecutrix improbable.

5. He stressed that the first incident of rape is alleged to have occurred on 23.07.2019 at the prosecutrix's residence. He submitted that as per the supplementary charge sheet, the CDR location of the petitioner at the relevant time is at Vishwas Nagar terminal, which is at a distance of 6.2km from the place of the alleged incident. He further submitted that the alleged incident took place at 12:30pm, however, as per the CDR location, the petitioner and the prosecutrix were on call with each other between 12:30pm and 1:10pm on the concerned day. He submitted that the prosecutrix had also made a call to the petitioner after the alleged incident and the same shows that the allegations are baseless.

6. He submitted that as per the supplementary chargesheet, the DNA profile generated from the cloth of the prosecutrix did not match with the DNA profile of the petitioner and there is no scientific evidence to support the case of the prosecutrix either.

7. He submitted that the prosecutrix has alleged that the petitioner had threatened her with her nude and objectionable photos, however, no such material was found in the data of the mobile phone of the prosecutrix or the petitioner. He submitted that the videos, chats and



photos that were found in the chat between the parties were sent by the prosecutrix.

8. He submitted that the parties were in constant communication since the years 2011-2012. He submitted that the prosecutrix was sharing courtesy messages with the petitioner till 04.08.2019 after the alleged incident of rape on 23.07.2019, whereafter, on 07.08.2019, an argument took place between the parties where the prosecutrix threatened the petitioner.

9. He submitted that as per the report filed by the State to the pre-arrest bail application of the petitioner, the parties had attended a marriage in the year 2016 and stayed in one room.

10. He submitted that the delay of two months in reporting the matter further indicates that the allegations are concocted and levelled to wreak vengeance upon the petitioner.

11. *Per contra*, the learned counsel for Respondent No.2 submitted that this Court ought not delve into the matter at this stage as there is no contradiction in the statement of the prosecutrix so as to warrant stifling of the proceedings at the interlocutory stage. He placed reliance on the judgment in the case of ***R.P. Kapur v. The State of Punjab : 1960 3 SCR 388***.

12. He submitted that the location of the petitioner between 12:18 pm and 12:38 pm on the relevant date is not disclosed. He submitted that the petitioner was in Laxmi Nagar at 12:18 pm, which is at a rough distance of 8 to 10 mins from the alleged place of incident. He



submitted that the possibility of him having raped the prosecutrix in the intervening time cannot be negated at this juncture.

13. He submitted that there are major discrepancies in the supplementary chargesheet and the same is a matter of trial, which needs to be decided on evidence.

ANALYSIS

14. It is relevant to note that the petitioner has invoked the inherent jurisdiction of this Court seeking quashing of the present FIR. While this Court needs to exercise restraint in stifling prosecution, however, the inherent jurisdiction can be exercised if it is found that the continuance of criminal proceedings would be a clear abuse of process of law. In case it is found that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance, the Court ought to look into the FIR with care and a little more closely. Without carrying out a detailed mini enquiry, the Court can also appreciate the attending circumstances emerging from the record of the case and can read between the lines.

15. In the case of *State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335*, the Hon'ble Apex Court had illustrated the category of cases where the Court may exercise its inherent jurisdiction to quash the proceedings. The relevant portion of the judgment is reproduced hereunder:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have



extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

*(3) Where the **uncontroverted allegations** made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

*(5) Where the allegations made in the FIR or complaint are so absurd and **inherently improbable** on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

(emphasis supplied)



16. In the case of ***Pradeep Kumar Kesarwani v. State of U.P.*** : **2025 SCC OnLine SC 1947**, the Hon'ble Apex Court while dealing with a challenge to a summoning order for a myriad of offences, including Section 376 of the IPC, had reiterated the steps that should be followed to determine the veracity of a prayer for quashing. The relevant portion of the judgment is as under:

“20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:—

*(i) **Step one**, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?*

*(ii) **Step two**, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.*

*(iii) **Step three**, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?*

*(iv) **Step four**, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*

*If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: ***Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)***)]”*



(emphasis supplied)

17. As noted in the aforesaid judgments, the power to quash proceedings is to be exercised sparingly. While there is no absolute bar against quashing of cases involving allegations of rape, this Court considers it apposite to proceed with utmost caution and circumspection, especially considering that in cases relating to allegations of sexual assault, the statement of the prosecutrix attains higher significance and the same is sufficient for conviction if it inspires confidence. The same is not to say that the testimony of a prosecutrix can never be doubted and the same is to be accepted as gospel truth. It is settled law that it is only when compelling reasons exist to find that the statement of a witness is not wholly reliable, that it would be open to the Court to seek corroboration [Ref. *Nirmal Premkumar v. State* : 2024 SCC OnLine SC 260].

18. Earlier, viewing the evidence of a victim with spectacles tinged with doubt and suspicion was deemed to be akin to adding insult to injury, especially since our society was one where the woman levelling the allegations renders herself susceptible to possible ostracization from different elements [Ref. *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* : AIR 1983 SC 753]. Although the same may be true to an extent even today, this Court cannot be blind to the fact that with the passage of time, there has been an increasing tendency of weaponizing law to wreak vengeance after souring of relationships, which has a chilling effect on genuine survivors. False cases have the effect of tarnishing an individual's reputation in society and it is the duty of the Court to take into account attending



circumstances as well as the material collected during investigation [Ref. *Mohammad Wajid v. State of U.P.* : 2023 SCC OnLine SC 951]. This Court is thus burdened with the responsibility of balancing equities and limiting itself to an assessment of ascertaining whether the allegations are frivolous or improbable without conducting a mini enquiry into the veracity of the allegations.

19. Before delving into the merits of the present case, this Court also considers it apposite to address the issue raised by the prosecutrix in relation to feasibility of quashing the FIR in the present proceedings as well. It is argued that the proceedings should not be quashed at this stage before charges have been framed against the accused. Reliance has been placed on the judgment in the case of *R.P. Kapur v. The State of Punjab* (*supra*) where the Hon'ble Apex Court opined that the Court should be reluctant in interfering with criminal proceedings at the interlocutory stage.

20. While it is well-settled that this Court should be cautious to exercise inherent jurisdiction and interfere with the proceedings after chargesheet has been filed pursuant to thorough investigation, this Court is not precluded from quashing criminal proceedings to secure the ends of justice even after chargesheet is filed [Ref. *State of Odisha v. Pratima Mohanty and Others* : (2022) 16 SCC 703]. Normally, it would be appropriate to let the parties address arguments on charge before the learned Trial Court as the same is already seized of the matter, however, it is relevant to note that in the present case, the petitioner approached this Court without much delay after lodging of



FIR and the matter has been pending on the board of this Court for close to five years without any fault of the petitioner.

21. Furthermore, considering that the proceedings before the learned Trial Court were stayed way back on 17.05.2022, at this juncture, it is apposite to appreciate the matter on merits, especially since this Court is not precluded from perusing the findings of investigation.

22. In the present case, it is essentially the case of the prosecution that the petitioner raped the prosecutrix at her residence at gunpoint and thereafter, blackmailed her with her objectionable photographs. The fulcrum of the entire prosecution is the statement of the prosecutrix.

23. Undoubtedly, the allegations are in regard to serious cognizable offences. From a bare perusal of the allegations as made by the prosecutrix, it cannot be said that no case is made out against the accused petitioner as the same are not lacking in any requisite ingredients that constitute the alleged offences.

24. However, it is equally true that the investigating agency has been unable to find any material in support of the allegations, and rather, the petitioner has agitated that the investigation reflects that the case of the prosecution is fraught with implausible assertions. It is the case of the petitioner that he has been falsely implicated pursuant to some argument that took place between him and the prosecutrix, and the allegations levelled against him are improbable. As held in the case of *State of Haryana v. Bhajan Lal* (*supra*), if a case is inherently



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improbable or manifestly vexatious in nature, it is open to the Court to exercise its inherent jurisdiction to quash the proceedings. Much emphasis has been laid upon the findings of investigation as canvassed in the supplementary chargesheet as well as the absence of corroboration. It is also argued that the allegation of raping at gunpoint is implausible as it was found that the petitioner has no gun licence, and furthermore, as mentioned in the charge sheet, the parties shared a room in a Hotel on 11-12th May, 2016, which shows that the prosecutrix is not reliable.

25. It is pertinent to note that the supplementary charge sheet was filed on directions given by the learned Magistrate to carry out investigation in relation to the mobile number of the prosecutrix and location of the petitioner as per CDR. The observations in the supplementary chargesheet are as under:

25.1 CDR ANALYSIS: It was found that as per CDR, while the complainant was at her residence, however, at 12:38 pm, the petitioner was at Vishwas Nagar terminal Shahdara which is at a distance of 6.2 km as per Google maps. At 12:18 pm, the petitioner was found at Gali number 1, Gururam Das Nagar, Laxmi Nagar. It was found that the location chart of the prosecutrix and the petitioner reflects that their location was different from 12:30pm onwards on the relevant date. The CDR also reflected that calls were exchanged between the petitioner as well as the victim, both before and after the alleged commission of rape at 12:30 pm on 23.07.2019. It was found that one call was also made from the end of the prosecutrix at 12:30pm,



however, despite repeated efforts, location of the petitioner's mobile phone was not provided by the concerned JIO Nodal Officer.

25.2 FSL Result/ DNA Report: It was found that the mixed DNA profile generated from the material found on the clothes of the victim, which were allegedly worn by her at the time of the incident, did not match with the DNA profile of the petitioner.

25.3 Video clipping/ chat/ picture extracted from mobile phones by FSL: No obscene photos or videos of the prosecutrix were found in the data of the petitioner's phones. After analysis of WhatsApp chat between the parties, it was found that most of the objectionable pictures and videos were sent by the prosecutrix to the petitioner. It was found that the parties were in touch since 20.10.2017 and having a cordial relationship. Furthermore, the statement of the prosecutrix was recorded wherein she stated that she did not have the phone being used by her at the time of the incident. It was found that the prosecutrix was sharing courtesy texts with the petitioner till 04.08.2019 and on 07.08.2019, some arguments took place between the parties and the prosecutrix threatened the petitioner and sent him a text which read as follows- '*Kutta na banaya to mera naam nahi*'.

25.4 Investigation regarding petitioner's office: Although the prosecutrix had alleged that the petitioner had put his hand over her hand on June, 2019 at her company, however, the company came into existence on 10.07.2019. It was found that the allegation of visiting the company prior to coming to its existence also does not appear to be truthful.



26. Coming to the steps stipulated by the Hon'ble Apex Court in *Pradeep Kumar Kesarwani v. State of U.P. (supra)*, the answer to the *first* question is in the affirmative. Although bald assertion is made in the written synopsis that there are certain discrepancies in the supplementary chargesheet, no such discrepancies have been pointed out by the counsel for the prosecutrix. Even otherwise, the prosecutrix has not denied or disputed the evidence put forth by the prosecution. The material has been found pursuant to investigation in the present matter and the same is of such nature that it is undoubtedly indubitable.

27. *Secondly*, in the opinion of this Court, the supplementary chargesheet is sufficient to reject the factual assertions made by the prosecutrix. While CDR location is only indicative of location of phone at a particular point of time, however, in the present case, the parties also exchanged multiple calls with each other. The prosecutrix has herself also asserted that the petitioner was in touch with her prior to the incident, wherein he asked her about her whereabouts. Although the location of the accused right at the time of the incident has not been found, it cannot be ignored that admittedly, the petitioner was at a distance of 5 km at 12:18pm and he was at a distance of 6.2 km at 12:38pm. Even as per the synopsis filed on behalf of the victim, in even optimal circumstances, it would take an individual 8-10 mins to reach the place of incident from the petitioner's location at 12:18 pm. The victim was residing in a residential apartment at that time. The same renders the allegation of rape at 12:30 pm implausible as there is



no realistic scenario where the accused could have reached the victim's residence, raped her and then again covered a distance of 6.2 km by 12:38 pm.

28. Moreover, the parties have exchanged a call *even after* the alleged incident of rape and a call was made by the prosecutrix at 12:30pm, which is when the incident happened, as well. It cannot be ignored that the chats indicate that the parties were in touch over a long period of time and most promiscuous videos and photos were sent by the prosecutrix and even after the alleged incident, the parties continued to exchange seemingly normal chats. There is no allegation that the petitioner blackmailed the prosecutrix into sending any such material. It also cannot be ignored that the last chat between the parties is indicative of discord where the prosecutrix has threatened the petitioner. The same reeks of vengeful retribution and the aforesaid factors weaken the case of the prosecutrix.

29. Furthermore, the scientific evidence reflects that a mixed DNA profile was found on the clothes given by the victim, however, the same has not matched with the DNA of the petitioner. The prosecutrix has also not sought to prefer any justifiable explanation for any of these facts, including the incorporation of her company in July of 2019, which renders the allegation in relation to the prosecutrix's office false.

30. Although the absence of gun license can be explained, it cannot be ignored that while the scientific evidence, exchange of some calls, discrepancy in geographic location as per CDR and nature of chats



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alone may not be sufficient to make out a case in favour of the accused, all the factors coupled with each other bely the case of the prosecutrix. Once the allegations appear to be so absurd that they are entirely out of the realm of possibility, the benefit of the same cannot be denied to the petitioner.

31. The answer to the *third* question is also in the affirmative. The CDR analysis, scientific evidence, chats found in FSL analysis of the phones of parties and other evidence cannot be justifiably refuted by the prosecutrix. It is pertinent to mention that no such attempt to refute the material has been made before this Court either so as to render the same doubtful.

32. Lastly, in view of the observations made in the aforesaid paragraphs, the answer to the *fourth* question is also in the affirmative. Continuation of proceedings when there is no shadow of evidence to conquer the yardstick of reasonable doubt will only serve to harass the petitioner. The judicial conscience of this Court has been persuaded to exercise its discretion in favour of the petitioner by exercising inherent jurisdiction.

33. The counsel for the prosecutrix has sought to argue that this Court should not interfere merely on account of lack of corroborative evidence due to there being no flagrant contradiction or discrepancy in the statements of the prosecutrix. It has also been stressed that the evidence of a victim assumes high significance and the same cannot be brushed aside. While it is settled law that corroboration is not a *sine qua non* for conviction in a rape case as in such cases as it is often



difficult to find any such evidence due to the very nature of the offence, which usually takes place in closed quarters, however, considering the CDR locations as well as the nature of chats between the parties, it cannot be ignored that the present case is one where the allegations are implausible and appear to be manifestly false. On a scrupulous examination of the material on record, this Court is of the opinion that the present case is one where the evidence found during investigation suggests that the allegations are not genuine. *Ex facie*, the statements of the prosecutrix are not of such sterling nature which justify continuation of proceedings.

34. Considering the aforesaid discussion, in the opinion of this Court, there is no material which gives rise to grave suspicion against the accused petitioner and continuation of proceedings will be an abuse of process of law. Subjecting the petitioner to suffer the tribulations of trial in such circumstances would be tantamount to miscarriage of justice and the same warrants interference by this Court.

35. At this juncture, this Court considers it apposite to reiterate that although ordinarily there should be no interference after filing of chargesheet and the Court ought not to conduct a mini trial in exercise of inherent jurisdiction, however, in this case, this Court has been persuaded to look into the facts and appreciate the material as the prosecutrix has not controverted the same, and the material is also not of such nature that it can be justifiably controverted.



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36. In view of the above, FIR No. 190/2019, including all consequential proceedings arising therefrom, is quashed.

37. The present petition stands allowed in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 22, 2025
'SS'