



2025:DHC:9644



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

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Reserved on: 07.08.2025**Pronounced on: 03.11.2025**+ **CRL.M.C. 904/2024 & CRL.M.A. 5983/2024 STAY****SUKHINDER BIR SINGH**

.....Petitioner

Through: Petitioner in person

versus

STATE OF DELHI & ANR.

.....Respondent

Through: Mr. Yudhvir Singh Chauhan,
APP for the State with SI
Preeti, PS Rani Bagh
Mr. Ramit Malhotra, Mr. Manoj
Kumar Gupta, Mr. Mohd.
Wahid, Advs. for R-2

CORAM:**HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present petition has been filed under Section 482 Cr.P.C. on behalf of the petitioner for setting aside the order dated 21.11.2023 passed by the Ld. Additions Session Judge in criminal revision no. 22/2022 and quashing of criminal proceedings in case no. 3601/2017 pending before the Ld. Metropolitan Magistrate (Mahila Courts), North-West District, Rohini Courts, Delhi, pertaining to FIR no.



536/2014, under Section 354A IPC, registered at Police Station Rani Bagh.

Factual Background

2. As per the charge sheet, complainant made a written complaint dated 18.07.2014 at Police Station Rani Bagh alleging that her neighbor Sukhinder Bir Singh @ *Sandy* (petitioner) has been harassing her for past few weeks, passes lewd remarks, winks at her and a couple of times even attempted to physically assault her. She further alleged that petitioner walks around improperly dressed and makes dirty gesture towards her. Complainant refused to undergo medical examination. On such complaints, FIR was registered under Section 354A IPC.

3. Despite requests made by the Investigating Officer, the complainant refused to give statement under Section 164 Cr.P.C. and failed to appear in Court for the said purpose citing one or the another excuse. However, her supplementary statement under Section 161 Cr.P.C. was recorded.

4. Petitioner joined investigation and in response to notice under Section 41A Cr.P.C. he disclosed that his neighbour and his family members including the daughter-in-law of the neighbour who is the complainant were carrying out construction in their house which resulted in cracks in the walls of his house and due to said reason there were verbal exchanges between the two families.



5. Upon completion of investigation charge sheet was filed against the petitioner under Section 354A/354D/509 IPC.

6. Vide order dated 28.08.2019, the Ld. Trial Court directed the framing of charges against the petitioner under Section 354A/354D/509 IPC. Aggrieved by the said order, petitioner challenged the same before this Court vide W.P. (CRL) 1172/2021. However, vide order dated 03.01.2022, the writ petition was disposed of with liberty to the petitioner to challenge the order framing charge before the Sessions Court.

7. Petitioner then preferred the revision petition bearing criminal revision no. 22/2022 before the Sessions Court which came to be dismissed vide impugned order dated 21.11.2023 which is subject matter of challenge in the present petition.

Submissions of the Petitioner

8. The petitioner who appeared in person submitted that the FIR lodged against him is a counter blast to a civil complaint dated 05.06.2014 made by him to Commissioner, MCD regarding dangerous, illegal, unauthorized construction with encroachment on government land by respondent no. 2/family at the residence. It is submitted that the charge sheet itself records that complaint did not cooperate in the investigation so much so she refused to give statement under Section 164 Cr.P.C. No site plan of the occurrence has been prepared. It is argued that the present FIR is nothing but a tool to arm twist/force the petitioner to negotiate with respondent no. 2



and to further subjugate the petitioner to withdraw the prior civil complaint.

9. It is further submitted that since after the filing of the civil complaint by the petitioner, the complainant and her family have filed series of false complaints of civil as well as criminal nature against the petitioner to pressurize the petitioner to settle the civil dispute.

10. It is further argued that the FIR was initially registered under Section 354A IPC, however, the charge sheet has been filed under Section 354D and 509 IPC as well without any supporting material and the Ld. ASJ passed an unreasoned order and failed to address as to whether the essential ingredients of the charges are *prima facie* made out against the petitioner. He further submits that the FIR does not mention any date, time and place of alleged incident and is totally vague in nature.

11. The attention of the Court was also drawn to the fact that earlier an FIR under Section 354C IPC lodged against the petitioner by the mother-in-law of the respondent no. 2 was quashed by this Court on 11.11.2024. It is submitted that successive FIRs have been filed by the respondent no. 2 and her family to implicate the petitioner to settle scores in the civil dispute, wherein demolition order has been passed against respondent no. 2 and her family for carrying out illegal construction.

12. The petitioner asserts that there is no evidence on record to justify the framing of charges against him. Reliance was placed upon



Naresh Aneja versus State of UP and another 2025: INSC: 19, wherein the Hon'ble Supreme Court held that charges must be framed on the basis of material on record, which is stated to be absent in the present case except for a vague complaint. Reliance has also been placed upon State of Haryana Versus Bhajan Lal 1992 SUPP (1) SCC 335, wherein the Hon'ble Apex Court held that criminal proceedings cannot be initiated merely to settle the pending civil disputes. It is pointed out that FIR in the present case was filed in the year 2014 and delayed charge sheet was filed in the year 2017 solely due to complainant's non-cooperation. He further submits that this Court vide order dated 03.01.2022 had directed the petitioner to challenge the order on charge before the Sessions Court, however, the impugned order contains no merit based discussion before dismissing the revision petition filed by him.

Submissions on behalf of the State and respondent no. 2

13. The Ld. APP who appears for the State submitted that trial is presently at the stage of prosecution evidence and the testimony of the complainant stands completed. Placing reliance on the statement of respondent no. 2, recorded under Section 161 Cr.P.C., it has been submitted that the complainant has alleged that on 18.07.2014 near her house, petitioner abused her and passed indecent comments and therefore, relying on such statement it is argued that *prima facie* offences under Section 354A/354D/509 IPC are attracted in the present case and there is no illegality and infirmity in the order passed



by the Ld. Trial Court and the Ld. Sessions Court, framing charges under aforesaid Sections against the petitioner. It is argued that notwithstanding the certain omissions in the FIR, the prosecution has sufficient evidence to proceed with the trial.

14. Ld. Counsel for respondent no. 2 submitted that the entire petition is based on the plea of false implication. It is contended that such a defence can be raised and considered during the course of trial. It is stated that the complainant joined the investigation and gave supplementary statement. It is submitted that petitioner made obscene gestures towards the complainant, leading to the registration of the FIR and charges of abuse and assault were rightly framed and thus there is no infirmity in the order passed by the Ld. Trial Court and the Ld. Sessions Court framing charges.

Analysis & Conclusion:

15. Admittedly, the FIR was initially registered only under Section 354-A IPC. However, subsequent to the recording of supplementary statement under Section 161 Cr. PC, Sections 354-D and 509 IPC were also invoked. While deciding the question of charge, it is the duty of the Court to apply its judicial mind to determine if sufficient grounds exist for proceeding against the accused. The Court is not to act as a mere post-office for the prosecution. If the material gives rise only to suspicion and not grave suspicion, the accused should be discharged. At this preliminary stage, the Court must see whether the



prosecution evidence even if accepted in *toto* and without rebuttal would justify proceeding with the trial.

16. It is trite law that at the stage of consideration of charge, the Court is just to find out whether there is existence of a *prima facie* case on the basis of material placed on record. While doing so, the Court has the power to sift and weigh the evidence for limited purpose of finding out whether or not a *prima facie* case is made out against the accused. If the material placed before the Court discloses grave suspicion against the accused, the Court will be justified in framing charges and proceeding with the trial. No roving inquiry can be done into the pros and cons of the matter and the evidence is not to be weighed as if a trial is being conducted. At the stage of charge, the Court is not to consider whether there is sufficient ground for conviction of the accused or the trial is sure to end in conviction. The test to determine *prima facie* case would always depend upon the facts of each case. If the material placed before the court discloses grave suspicion against the accused, which has not been properly explained, the Court will be fully justified in framing charges and proceeding with the trial. The probative value of the evidence brought on record cannot be gone into at the stage of framing charges. Similarly, the defence of the accused is not to be considered and the same needs to be tested in the light of evidence led at the final stage.

17. Before finding out as to whether there was sufficient material before the trial court to frame the charges, it would be apposite to



reproduce the relevant provisions. Section 354-A IPC provides as under:-

“354A - Sexual harassment and punishment for sexual harassment

1 A man committing any of the following acts—

- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or*
- (ii) a demand or request for sexual favours; or*
- (iii) showing pornography against the will of a woman; or*
- (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.*

2 Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

3 Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

18. The allegations in the FIR are limited to the extent that for the past few weeks, petitioner has passed lewd remarks, winks at her and couple of times, has attempted to physically assault her. There are also allegations that he walks around improperly dressed and make dirty gestures towards her. The allegation regarding passing of ‘lewd remarks’ and ‘dirty gestures’ is totally vague. It is not described as to what exact remarks were spoken and what were those dirty gestures. It is apparent that the FIR, which forms foundation of the criminal proceedings, is vague and bereft of specific particulars, inasmuch as, the FIR merely mentions the words “lewd remarks”, “walks out improperly dressed” and “dirty gestures”. It does not mention the



exact date, time or the place of occurrence. Such a lack of specificity undermines the credibility of the allegations and fails to provide the accused a fair opportunity to defend himself. The criminal law demands precise and clear allegations to sustain prosecution. In the present case, the FIR falls far short of that requirement.

19. There is no allegation in the FIR that petitioner tried to establish physical contact or made any advances or made any explicit sexual overtures or demand or request for sexual favours, and showed pornography against the will of the complainant and in the absence of there being any specificity regards the 'lewd remarks' and 'dirty gestures' that he allegedly made, the ingredients of Section 354-A IPC are not attracted in the present case.

20. Section 354-D IPC, relating to stalking, reads as under:-

“354D IPC - Stalking

(1) Any man who—

- 1. follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or*
- 2. monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking¹;*

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

- (i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or*
- (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or*
- (iii) in the particular circumstances such conduct was reasonable and justified.*



(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.”

21. Admittedly, in the FIR, there is no allegation against the petitioner regarding stalking. However, in her supplementary statement under Section 161 Cr. PC, the complainant has stated that petitioner would follow her as and when she used to go to park. However, even such allegations are vague, inasmuch as, complainant has not specified any date, time or year when petitioner stalked her. In the absence of specific allegations, no offence under Section 354-D IPC shall be attracted against the present petitioner.

22. Section 509 IPC reads as under:-

“509 - Word, gesture or act intended to insult the modesty of a woman - Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.”

23. Even though, the FIR lacks specificity with regard to “lewd remarks” and “dirty gestures”, in supplementary statement under Section 161 Cr. PC, records as under:-

“dinak 18.07.14 ko bhi usne mere ghar ke pass mujhe maa bahin ki galiya di va bhadde comment pass kiye jiski harkato se pareshan hokar mene usi din dopehar ke samay thana jakar uske khilaf ek likhit shikayat di thi”



24. FIR is not the encyclopedia of the occurrence. Registration of FIR merely sets the criminal law into motion, where after, the investigation begins. The statement of the complainant recorded under Section 164 Cr. PC therefore cannot be disregarded. Even though the said statement does not specify what were those “Bhadde Comments” it categorically records that on 18.07.2014, petitioner abused her. Such a statement at this stage cannot be disbelieved. The defence of the petitioner that the present case is a counter-blast to the civil dispute, cannot be considered at this stage and shall be considered at an appropriate stage. On the basis of supplementary statement under Section 161 Cr. PC of the complainant, prima facie, offence under Section 509 IPC is attracted against the petitioner.

25. Upon perusal of the record, the Court finds that the impugned order dated 21.11.2023, passed by the learned ASJ, suffers from lack of proper reasoning. The order on charge does not demonstrate application of mind to the essential ingredients of the offences under Section 354-A & 354-D IPC. It fails to evaluate whether the allegations in the FIR and material in the charge sheet meet the threshold for framing of the charges. The absence of such judicial scrutiny renders the impugned order partially unsustainable.

26. Section 482 of the Code of Criminal Procedure confers the High Court with an inherent power to quash an FIR or a complaint upon satisfaction of well-established parameters. If the allegations made in the FIR/complaint and the evidence collected in support of the same



do not disclose the commission of any offence and do not build any case against the accused and if a criminal proceeding is based on mala fides, or the proceeding is maliciously instituted with an ulterior motive, exercise of such power would be justified. The extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice. Such power under Section 482 Cr. PC must be used sparingly, cautiously and only in the rarest of rare cases. At this stage, the Court is not to conduct a mini trial and it is not proper at such stage for the Court to evaluate the truth or falsity of allegations made in the FIR. In **Ramesh Chandra Gupta v. State of U.P. & Ors.**, 2022 SCC OnLine SC 1634, the Supreme Court reiterated that quashing is only appropriate when the FIR and supporting evidence, even if accepted as true, do not show that any offence has been committed.

27. In the present case, as discussed, on the basis of investigation and in particular the statement of the complainant recorded under Section 161 Cr. PC, *prima facie*, offence under Section 509 IPC is made out against the petitioner, and therefore, it is not a fit case for quashing of the FIR and the proceedings emanating therefrom.

28. For the reasons discussed above, the petition is partly allowed. The impugned order dated 21.11.2023 is quashed to the extent it pertains to framing of charges under Sections 354-A and 354-D IPC. However, proceedings under Section 509 IPC shall continue in



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accordance with law. The learned trial court is directed to proceed with the trial in terms of the above order.

29. Petition along with pending applications, if any, stands disposed of accordingly.

RAVINDER DUDEJA, J.

November 03, 2025

LKS/RM

