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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 01.07.2025*+ **CRL.REV.P. 332/2024****ANIL KUMAR & ORS**

.....Petitioner

Through: Mr. Parmil Kumar, Advocate

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Rajkumar, APP for the
State with Ms. Roma Ahuja,
Advocate**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. This revision petition has been preferred by the petitioners, who seek setting aside of the order dated 03.10.2023 [hereafter '*impugned order*'], passed by the learned Additional Sessions Judge (Special FTC), District East, Karkardooma Courts, Delhi [hereafter '*Sessions Court*'] in SC No. 333/2023, *vide* which the learned Sessions has framed charges against the accused persons, including the petitioners herein.

2. The allegations brought forth by the prosecutrix, by way of a complaint dated 04.03.2023 lodged at Police Station Krishna Nagar, Delhi, are that she was married to Anil Kumar (petitioner no. 1) in



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the year 2002, and three children were born from their wedlock. It is alleged by the complainant that since the imposition of the lockdown in 2020 due to the pandemic, her brother-in-law, Heera Lal, had started harassing her both mentally and physically. She has alleged that on 30.10.2022, her husband had asked her to serve food to the accused Heera Lal in his room, and when she had gone there, he had caught hold of her hand, had torn her clothes, and had attempted to establish physical relations with her forcibly. She had managed to save herself and informed her husband of the incident; however, he had allegedly ignored her and dismissed it as mere banter between a *devar* and *bhabhi*. It is further alleged that on 31.10.2022, her husband had again forced her to take food to Heera Lal's room, where the accused had again caught hold of her hand and had forcibly established physical relations with her. She claims to have complained to her husband once again and also played a recording to him regarding the same, but he had allegedly told her not to bring up the matter further. Thereafter, accused Heera Lal had allegedly threatened her that if she did not live with him, he would ruin her life. The prosecutrix has further alleged that on 13.02.2023, the accused persons Heera Lal, Ravi, Isha, and Mukesh had made false allegations against her, assaulted her, and thrown her out of the matrimonial home. She further alleges that on 17.02.2023, all the accused persons had come to her residence and physically assaulted her. Aggrieved by the same, the prosecutrix had called the police, following which the present FIR bearing no. 143/2023 came to be



registered at P.S. Krishna Nagar, Delhi, against all the accused persons under Sections 376, 354B, 323, and 34 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

3. During the course of investigation, the statement of the prosecutrix was recorded under Section 164 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] before the learned Magistrate. Her supplementary statement was recorded under Section 161 of Cr.P.C. by the police wherein she alleged that accused Isha @ Sundari had also abused her. After completion of the investigation, chargesheet was filed against the accused Heera Lal for offence under Sections 376/354B of IPC, against Anil Kumar (husband), Lali @ Geeta (sister-in-law), Mukesh (husband of sister-in-law), Ravi (brother-in-law) and Sarita (sister-in-law) for offence under Sections 323/341/34 of IPC, and against Sundari @ Isha (sister-in-law) for offence under Sections 323/341/509/34 of IPC.

4. By way of the impugned order, the learned Sessions Court was pleased to frame charges against all the accused persons. The relevant portion of the impugned order is reproduced below:

“...In the present case, the prosecutrix has leveled specific and categorical allegations against accused Heera Lal in her complaint that accused tore her clothes on 30.10.2022 and tried to rape her. There are further allegations that on 31.10.2022 accused Heera Lal raped prosecutrix forcibly. In her statement recorded under section 164 Cr.P.C prosecutrix has leveled specific allegations that on 31.10.2022 at around 02.00-02.30 p.m., accused Heera Lal tore her clothes and removed her plazzo and thereafter committed rape with her. There are also allegations that on 13.2.2023 prosecutrix was beaten by accused Heera Lal, Ravi, Mukesh and Sundari and on



19.02.2023 prosecutrix was beaten by all the accused persons at her parental home. In her supplementary statement, prosecutrix has alleged that accused Sundari had abused her by using words rxxxx rxxxx in the presence of others.

There are statements of mother, brother and cousin sister of the prosecutrix recorded under Section 161 Cr.P.C stating that they were told about the aforesaid incidents by the prosecutrix. Whether the allegations are false or not cannot be considered at this stage without giving an opportunity to the prosecutrix to prove her allegations before the court. The discrepancies in the statements of the prosecutrix are not sufficient for discharge of accused persons.

In *Hazratdeen Vs. State of U.P., Hon'ble Supreme Court Special Leave to Appeal (Crl.) No. 9552/2021 dated 06.01.2022*, held that discrepancies in the statement of the prosecutrix cannot be a ground for discharge without initiation of trial.

In the present case, the statements of the prosecutrix and other evidence put forth by the prosecution prima-facie establishes a case for framing of charge against the accused persons.

In the facts and circumstances of the case and in view of observations made above, it is held that the prima-facie following offences are made out against the accused persons.

a. against accused Heera Lal - offences punishable u/s. 376/511 and under section 376(2)(f)/354B/506 of Indian Penal Code.

b. against accused Heera Lal, Anil Kumar, Lali, Ravi, Sarita and Mukesh- offences punishable u/s. 323/34 of Indian Penal Code.

c. against accused Sundari @ Isha - offence punishable u/s. 323/34 and u/s. 509 of Indian Penal code.

Put up for framing of formal charges against the accused persons on 18.10.2023....”

(Emphasis added)

5. The learned counsel appearing for the petitioners, at the outset, submits that he is only pressing the relief, i.e. setting aside of the



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impugned order, *qua* the petitioner nos. 2 and 3, i.e. Lali @ Geeta and Sarita. It is argued that it is a family dispute, and the petitioners have been falsely implicated in the present case. It is argued that there are no specific allegations against the petitioner nos. 2 and 3, and their names have not been mentioned in the FIR. It is submitted that the names of the said petitioners have been revealed, sans any specific allegations, in the statement given by the prosecutrix under Section 164 of Cr.P.C. It is also submitted that the prosecutrix has also mentioned the presence of her daughter, namely Sonam, on the alleged incident of 17.02.2023, however, she has not been made the accused in the present case. It is therefore prayed that the petitioner nos. 2 and 3 be discharged in this case and the impugned order be set aside to this extent.

6. The learned APP for the State, on the other hand, states that there is no infirmity in the order passed by the learned ASJ and there are specific and clear allegations against the accused persons/revisionists nos. 2 and 3, for framing of charges against them. Therefore, the present appeal be dismissed.

7. This Court has **heard** arguments addressed on behalf of both parties and has perused the material available on record.

8. At the outset, it is pertinent to mention that the learned counsel for the petitioners submitted that he was pressing the present petition only on behalf of petitioner nos. 2 and 3, namely, Lali @ Geeta and Sarita. He clarified that the petition was not being pursued with



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respect to the remaining petitioners. Accordingly, this Court shall proceed to examine and adjudicate the matter only in relation to petitioner nos. 2 and 3.

9. In the present case, the learned Sessions Court has framed charges against petitioner nos. 2 and 3 for offence punishable under Sections 323/34 of IPC, after taking into consideration the allegations levelled by the prosecutrix against the said petitioners. Section 323 of IPC provides punishment for voluntarily causing hurt, and the offence of voluntarily causing hurt is defined under Section 321 of IPC.

10. This Court notes that the prosecutrix has alleged in the FIR that on 17.02.2023, all the accused persons (which includes the petitioner nos. 2 and 3) had come to her paternal home on the pretext of resolving the disputes but all of them had rather beaten her, due to which she was compelled to call PCR by dialing 112 number. Further, in her statement recorded under Section 164 of Cr.P.C., the prosecutrix had specifically named the petitioner nos. 2 and 3 – that they had visited her paternal house on 17.02.2023.

11. During the course of investigation, the statements of the mother, brother and cousin sister of the prosecutrix were also recorded under Section 161 of Cr.P.C. wherein they had also alleged that the prosecutrix had been subjected to physical abuse by all the accused persons, including the petitioner nos. 2 and 3, on 17.02.2023, and that she had informed them that she had been sexually assaulted



by the co-accused Heera Lal.

12. Thus, this Court is of the opinion that the learned Sessions Court has passed a detailed order wherein the specific allegations levelled against each accused person, detailing the date, time and manner in which the alleged offences had been committed against her, have been considered. As rightly observed by the learned Sessions Court, at the stage of the framing of charge, the Court has to only form a *prima facie* view of the matter. The Court at this stage cannot conduct a roving inquiry to test the veracity of the allegations so as to reach a conclusion as to whether the accused would actually end up being convicted for the alleged offence, as held repeatedly by the Hon'ble Supreme Court.

13. In the case at hand, this Court notes that the allegations levelled by the prosecutrix in her statements are specific, and after considering the statements of other witnesses recorded under Section 161 of Cr.P.C. also, it is *prima facie* apparent that the petitioner nos. 2 and 3, had allegedly beaten the prosecutrix on 17.02.2023. Thus, the learned Sessions Court has committed no error in framing charges against the petitioner nos. 2 and 3. Needless to say, the veracity of these allegations or the defence of the accused can only be considered and appreciated at the stage of trial, and not at the stage of framing of charge.

14. Therefore, in view of the foregoing reasons, this Court finds no ground to interfere with the impugned order dated 03.10.2023, passed



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by the learned Sessions Court, as the same does not suffer from any infirmity.

15. Accordingly, the present revision petition, along with pending application, if any, stands dismissed.

16. It is however clarified that nothing expressed herein shall tantamount to an expression on the merits of the case.

17. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 01, 2025/vc