



2025:DHC:5200



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 03.07.2025*+ **CRL.REV.P. 245/2024**

K .....Petitioner

Through: Ms. Sunita Arora, Advocate.

versus

THE STATE &amp; ANR. ....Respondent

Through: Mr. Naresh Kumar Chahar,  
APP for State with Ms. Puja  
Mann and Mr. Vipin Kumar,  
Advocates.  
Ms. Vijay Rani, Adv for R-2.

**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of this revision petition, the petitioner-victim is seeking setting aside of the order dated 03.10.2023 [hereafter '*impugned order*'], passed by learned ASJ, (SC-RC), East District, Karkardooma Courts, Delhi [hereafter '*Sessions Court*'], *vide* which respondent no. 2/accused has been discharged in case arising out of FIR bearing no. 0235/2022, registered at Police Station Bhajanpura, Delhi, for the commission of offences punishable under Sections 354/354A/376/506/509 of the Indian Penal Code, 1860 [hereafter '*IPC*').

2. Brief facts of the present case are that on 20.02.2022, the



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victim lodged a complaint at P.S. Bhajanpura, Delhi, wherein she stated that she had been working as a Computer Operator in the Public Works Department (PWD) for the past 15 years, and was posted at the PWD office, Karkardooma Court, Division M-231. It was alleged that her senior, Rajender Kumar (respondent no. 2), who was serving as an Executive Engineer, used to touch her inappropriately. It was further alleged that on 17.07.2020, while she was working in the said office, the accused had persuaded her to enter into physical relations with him by promising to secure her a permanent position in the department. However, the complainant had refused. Subsequently, the accused allegedly coaxed her into making dinner for him, to which she agreed and invited him to her house. On the same day, at around 7:15 to 7:30 PM, both the complainant and the accused went to her residence in the accused's car. It was alleged that at her residence, the accused served her a cold drink laced with sedatives. Upon consuming the same, the victim became unconscious. It was further alleged that when the complainant regained consciousness about two hours later, she found herself unclothed, experienced pain and bleeding in her private parts, and realised that the accused had committed rape upon her and had already left the premises. On the following day, the victim confronted the accused, who allegedly threatened to kill her entire family and get her dismissed from service if she disclosed the incident to anyone. It was stated that due to fear of social stigma and dishonour in the family, the complainant had initially not reported the matter.



However, she later decided to come forward and sought appropriate action against the accused. On the basis of the said complaint, the present FIR came to be registered.

3. After the completion of the investigation, chargesheet was filed for offences punishable under Sections 354/354A/376/506/328 of the IPC.

4. By way of the impugned order on charge, the learned Sessions Court was pleased to discharge the accused/respondent no.2. The relevant portion of the impugned order dated 03.10.2023 is set out below:

“9. At the very outset, it is pellucid from contents of the FIR and the charge-sheet in band, that the premise of the allegation imputed in the police complaint dated 20.02.2022 is based upon the incident dated 17.07.2020 when the prosecutrix was raped by the accused at her home thus, highlighting a gross and inordinate delay of around more than one and a half years in registration of the FIR. Another contention which warrants deliberation at this stage is that the prosecutrix admittedly kept on doing her job in the PWD office, Karkardooma Court and only chose to initiate police complaint when she was terminated from her job and deprived of her benefits of maternity leave. There has no explanation whatsoever tendered by the complainant in any of her statements recorded during investigation for such a gross delay of around one and a half years in getting the FIR registered.

11. A peculiar feature in the present case has been that since both the prosecutrix and the accused work in an organization, thus Sexual Harassment Committee was constituted as per the prevalent rules and a thorough inquiry was conducted on the previous complaints given by the prosecutrix. A further introspection into the FIR as well as the supplementary charge-sheet filed with respect to the inquiry conducted by the Sexual Harassment Committee constituted at the work place by PWD, further reveals that no substantive evidence could be found to prove that accused used to sexually harass the



complainant/victim. During the inquiry conducted by the committee of PWD, it transpired that in her verbal statement, the prosecutrix imposed additional charges against the accused which were not reciprocated in her initial appearance before the committee and statements of several colleagues in the same office were also recorded by the Sexual Harassment Committee who consistently stated that the prosecutrix never shared with them any incident of misbehavior by the accused towards her.

12. Infact, those colleagues vouched for the good and normal behavior of the accused towards everybody particularly towards the female staff. The committee in a way gave a clean chit to the accused which can be fathomable from the conclusion and the findings given in the report of Committee. All the witnesses were found to be stating in favour of the accused and the alleged incident reported by the prosecutrix was never shared or disclosed by the prosecutrix with anyone in the office.

13. There is no statement of any other independent witness recorded during the investigation more particularly, of any colleague in the same office to substantiate the allegation that accused Rajender Kumar used to sexually harass the prosecutrix. There is a statement of only one witness namely Om Prakash recorded during the investigation who appears to be the landlord of the victim and he stated that he was aware about the case pending before the Labour Court relating to the dues of maternity leave filed by the prosecutrix and nothing else.

14. This court further would like to reemphasize that the prosecutrix neither made any call at 100 number on the date of alleged incident nor even shared about the alleged incident to anyone including her husband for around a period of one and a half years. The prosecutrix admittedly, is a married woman but she has not mentioned anywhere in her police complaint that when the accused Rajender Kumar accompanied her to her home for having dinner at around 0730 pm then, what was the location of her husband and was there anybody else present at her home at that time or not. It also appears to be an extremely weird proposition to believe that no body noticed including the husband of the prosecutrix about her inebriated condition if she got her re-consciousness after around 09.30 pm and that too, when she was partially naked. The entire story propounded by the prosecutrix were given rise to several questions and



doubts making her story incredulous at this initial stage, itself. Rather to the utter surprise, she kept on going to the same office and from all the assertions made by the prosecutrix, it seems that she felt agitated and aggrieved only when she was denied the maternity benefits and ousted from her job in respect of which, her litigation before the appropriate legal forum including Labour Court was already pending.

15. Merely making a bald and cryptic allegation that she was threatened to be killed by the accused shall not constitute a believable version of justification for not promptly informing about the alleged incident to the police. I wonder that what kind of a threat was weighing over the mind of the prosecutrix that she kept on working in the same office in PWD and not even confiding about the same to any of her colleague and for that matter even her husband? There is no record of any threats being given by the accused at any point of time, be it in the form of any text/message/chat or any call recording. There is no other forensic and medical evidence as well to authenticate and enhance the probative value of the police complaint lodged by the prosecutrix.

16. This court further deems it fit to retell that the findings and the conclusion given by the concerned Sexual Harassment Committee favoring the accused and giving a clean chit to him clearly manifest that the allegations leveled by the prosecutrix remained totally unsubstantiated in the absence of any evidence. The prosecutrix was found to be making improve and altered versions every time and came up with the allegation after around one and a half years with no plausible explanation for such an unwarranted time has scuppered by the prosecutrix and threshold.”

5. The learned counsel for the petitioner-victim contends that the impugned order dated 03.10.2023 is erroneous and liable to be set aside. It is submitted that the petitioner was subjected to sexual harassment, intimidation, and coercion at her workplace by her superior, i.e., respondent no. 2, who misused his official position to perpetrate the harassment. It is argued that the learned Sessions Court



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gave undue and misplaced reliance on the report of the Internal Complaints Committee (ICC), overlooking the well-settled legal position that findings of such committees operate independently and do not preclude criminal prosecution. The learned counsel further submits that the Sessions Court erred in holding that there was gross delay in the registration of the FIR. It is contended that the petitioner had, in her FIR, MLC, statement under Section 164 of Cr.P.C., and supplementary statement under Section 161 of Cr.P.C., clearly stated that due to threats extended by respondent no. 2, concerns regarding family dignity, and the social stigma attached to such incidents, she refrained from lodging the complaint earlier. It is further submitted that the Committee members had erroneously insisted upon production of evidence by the petitioner, contrary to the settled position of law that in serious offences such as rape, the sole testimony of the prosecutrix, if found credible, is sufficient to proceed to trial. It is argued that the Investigating Officer also failed to investigate the place of occurrence, i.e., the office premises, and no efforts were made to trace independent witnesses. It is also contended that the learned Sessions Court erred in observing that the petitioner herein continued to work in the same office even after the incident, without appreciating that her continued employment was due to financial constraints. With respect to the observation that there was no record of any threats, it is submitted that the threats were issued in person when the petitioner confronted the respondent no. 2 at the workplace the very next day after the incident. Accordingly, it is



prayed that the impugned order be set aside and that respondent no. 2 be directed to face trial in accordance with law.

6. *Per contra*, the learned counsel appearing for respondent no. 2-accused submits that the impugned order dated 03.10.2023 has been passed in accordance with law and warrants no interference by this Court. It is contended that the allegations levelled in the FIR are false, fabricated, and motivated, and that the present proceedings amount to a gross misuse of the process of law. It is submitted that, as per the petitioner's own version, the alleged incident occurred on 17.07.2020; however, on that particular date, respondent no. 2 was posted at the PWD (GNCTD) Office at Karkardooma Court, which creates a material doubt about the occurrence of the alleged incident. It is further argued that the actual dispute between the parties pertains to the petitioner's salary and maternity benefits, as is evident from her representations dated 17.08.2021, 23.08.2021, and 28.06.2021 made to the Internal Complaints Committee, wherein no allegations of sexual harassment were made. It is thus contended that the FIR has been registered more than 1.5 years after the alleged incident and that such inordinate delay remains unexplained and casts serious doubt on the credibility of the allegations. It is also submitted that the I.O., after a thorough investigation, found no *prima facie* case against respondent no. 2 and that the allegations appear to have been made with the ulterior motive of extorting money. It is therefore prayed that the present petition be dismissed.

7. This Court has **heard** arguments addressed on behalf of both



parties and has perused the material available on record.

8. The issue in the present case is whether the impugned order, vide which the accused was discharged from commission of offence of rape, warrants any interference by this Court in its revisional jurisdiction. To adjudicate the same, it is apposite to take note of the principles laid down by the Hon'ble Supreme Court in case of ***Sajjan Kumar v. CBI: (2010) 9 SCC 368***, in respect of exercise of powers under Section 227 and 228 of the Cr.P.C., which are as under:

“21. On consideration of the authorities about 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 of the Cr.P.C. 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 discloses 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)

9. In *M.E. Shivalingamurthy v. CBI: (2020) 2 SCC 768*, the Hon’ble Supreme Court, while discussing the principles to be followed while dealing with an application seeking discharge, observed as under:

- “i. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the Trial Judge would be empowered to discharge the accused.
- ii. The Trial Judge is not a mere Post Office to frame the charge at the instance of the prosecution.
- iii. The Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence would consist of the statements recorded by the Police or the documents produced before the Court.
- iv. If the evidence, which the Prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, "cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial.
- v. It is open to the accused to explain away the materials giving



rise to the grave suspicion.

vi. The court has to consider the broad probabilities, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This, however, would not entitle the court to make a roving inquiry into the pros and cons.

vii. At the time of framing of the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be accepted as true.

viii. There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused...”

10. Once a charge-sheet is filed before a Court, the Court concerned has to take into consideration the entire material which is placed before it, in the form of all the statements, not only of the victim, but of other witnesses also, and the documentary and electronically evidence, if any, to reach a conclusion as to whether at that stage, a *prima facie* view of the matter, when taken, would result into a conclusion that the offence in question could have been committed. However, it is also well-settled that a court of law cannot act as a mouth-piece of prosecution and accept the version of events alleged by the prosecution and frame charges. It is required to apply its mind to the material placed before it, and frame charge against an accused – when a grave suspicion arises against the accused. Further, when the sole material on record against an accused is the statement of the victim, the Courts cannot be precluded from considering the other material brought on record before the Court to see as to whether the allegations inspire confidence and there is grave suspicion against



accused to have committed the offence in question, so that an opinion is formed by the Court to proceed against him for offence of rape.

11. In a nutshell, it is the case of the petitioner that she was sexually harassed and raped by her superior, respondent no. 2, while she had become unconscious, after unknowingly consuming a drink laced with sedatives, given by the accused. It is her case that the accused had misused his official position to sexually exploit, threaten, and silence her.

12. It is material to note that there was a delay in lodging the FIR by the victim. The victim alleges that the incident of rape had occurred on 17.07.2020; however, the FIR came to be registered only on 20.02.2022, i.e. after more than one and a half years. It is pertinent to note that in her complaint and in subsequent statements under Section 161 and 164 of Cr.P.C., the victim attributes the delay to threats extended by the accused and concerns regarding family dignity and social stigma. However, such a generic explanation does not inspire confidence, especially when viewed in the backdrop of her continued engagement at the same workplace under the same superior, i.e., the accused/respondent no. 2. The absence of any prior complaint, even in the form of an informal disclosure to any colleague, family member, or authority, during such an extended period also raises doubts about the veracity of the allegations. Moreover, the fact that the victim initiated police proceedings only after being terminated from her job and allegedly denied maternity leave is also a relevant factor.



13. Further, the sequence of events, as narrated by the prosecutrix, also contains some improbabilities. According to the FIR, the accused had initially made inappropriate advances in the workplace towards the victim, which she had refused. Yet, despite the same, the victim had allegedly taken the accused to her own residence for dinner, on the same day. No explanation has been furnished as to why she chose to entertain a person who had allegedly made such advances, especially within the confines of her home.

14. The learned Sessions Court has also taken note of the fact that the victim is a married woman, and the incident is alleged to have occurred at her own residence at around 7:30 PM. However, conspicuously absent from her narrative is any reference to the whereabouts of her husband or any other family member at that time. She does not state whether her husband was present, absent, or away from the house. If indeed she regained consciousness at around 9:30 PM in a naked condition and in pain, the total lack of concern, reaction, or even mention of her husband's or any family member's response to such a condition also appears unusual and unexplained.

15. It is also relevant to note that an Internal Complaints Committee was constituted under the applicable workplace sexual harassment guidelines pursuant to the representations/complaints submitted by the victim. An inquiry was conducted by the Committee, during which several colleagues of the victim were examined. Not only did these colleagues uniformly state that the victim never disclosed any instance of sexual harassment to them, but



they also vouched for the accused's professional and respectful behavior, especially towards female staff. The learned Sessions Court has also noted that the victim had introduced new allegations during her verbal deposition before the Committee which were absent in her initial complaint. The Committee ultimately concluded that no substance could be found in the allegations made by the victim, and a clean chit was given to the accused. These findings, though not binding on a criminal court, cannot be entirely disregarded and do contribute to the overall assessment of credibility at this stage, when the evidence brought on record against the accused is only the statement of the victim.

16. Moreover, one witness whose statement was recorded by the police during the course of investigation, i.e. Om Prakash, the landlord of the victim, merely confirmed his awareness about a pending labour dispute concerning maternity dues. Further, since there is a delay of one and a half years in lodging the FIR, there is also no forensic or medical evidence on record to support the occurrence of the alleged offence. There is also no other material such as messages, call records, or any form of communication reflecting threats or coercion, and in this regard, the victim merely states that the accused used to threaten her in person.

17. Another aspect to be noted in the given facts and circumstances of the case is the existence of an ongoing employment-related dispute between the victim and the employer regarding her termination and denial of maternity benefits. It appears from the



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record that the allegations of rape were brought forth only after these employment disputes arose and after the victim was ousted from service. The impugned order thus notes that the timing of the complaint, closely following these developments, raises some suspicion regarding the bona fides of the victim.

18. At the stage of framing of charge, the settled legal position is that the Court must examine whether there exists grave suspicion against the accused warranting a full-fledged trial. In the present case, having regard to the totality of circumstances, the significant and unexplained delay in lodging the FIR, the improbable conduct of the victim, the findings of the ICC exonerating the accused, absence of independent or medical evidence, and a possibility of a motive for false implication stemming from an employment dispute, this Court is of the considered view that no grave suspicion arises against the accused.

19. Accordingly, the impugned order discharging the accused does not suffer from any legal or factual infirmity and merits no interference.

20. The present petition is accordingly dismissed.

21. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**JULY 03, 2025/vc**