



2025:DHC:3635



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 13.05.2025*+ **CRL.REV.P. 836/2024 & CRL.M.A. 19283/2024**

VICTIM .....Petitioner

Through: Mr. Virender Tarun and Mr.  
Chirag Mahalwal, Advocates

versus

STATE AND ANR. ....Respondents

Through: Mr. Manoj Pant, APP for State  
along with SI Renu.  
Mr. Mohit Sharma along with  
Mr. Anil Kumar Sharma,  
Advocates for R-2.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The petitioner-victim, by way of this revision petition, has assailed the order on charge dated 23.03.2024 [hereafter '*impugned order*'] passed by the learned Additional Sessions Judge, Central, Tis Hazari Courts, Delhi [hereafter '*Sessions Court*'] in case arising out of FIR No. 405/2022, registered at Police Station Wazirabad, Delhi.

2. Brief facts of the case, as per the prosecution, are that the victim had come to Delhi for preparation of competitive examinations and had met the accused in February 2019. They had exchanged phone numbers and had started talking to each other. It is alleged that the accused had clicked a few photographs of the victim



and thereafter had threatened to share the same with her family members. Under the threat of these photographs, he had allegedly established a forcible sexual relationship with her and had also video recorded the act. He had further threatened to circulate the video if she reported the matter to anyone. According to the victim, the accused had continued to pressure her by using the said photographs, and in June 2019, had called her to his room at Wazirabad, where he had emotionally blackmailed her and promised to marry her. On this assurance, he had again established a sexual relationship with her. Despite her refusal, the accused had allegedly continued to click her obscene photographs and threatened to make them public. She alleged that on subsequent occasions as well, the accused had forcibly established sexual relations with her under the continued threat of leaking her inappropriate photographs and video. The victim had further stated that the accused told her he would not marry her until he secured a job. In October 2021, her family members had gotten her engaged elsewhere, as the accused had refused to marry her. Thereafter, he had allegedly continued to threaten her with the release of her video and photographs and used to abuse her in filthy language, including abuses like 'MC' and 'BC'. He had also allegedly threatened to kill her brother and fiancé. She further alleged that on 16.02.2022, when she came to Delhi to appear in her NET examination, the accused had called her after issuing threats and snatched away the documents she had brought for her exam. It is alleged that he had taken her to Ghaziabad, Uttar Pradesh (UP), forcibly made her sign some documents, and performed a mock



marriage with her. However, in her statement under Section 164 of Cr.P.C., the victim stated that the accused had called her under threat, obtained photocopies of her documents, and forcibly took her signatures on certain affidavits. She claimed to have come to know after 3–4 days that she had signed marriage papers. She also alleged that the accused had demanded ₹10 lakhs from her for deleting her photographs and videos.

3. The FIR in this case was registered for offence under Sections 376(2)(n)/384/506/379(b) of IPC. After completion of investigation, chargesheet was filed for offence punishable under Sections 376/509/506/384/354D/201 of IPC.

4. By way of the impugned order on charge, the learned Sessions Court was pleased to frame charges against the accused for offence under Sections 506(II)/509/385 of IPC, and discharge him for offence under Sections 376/384/354D/201 of IPC.

5. The learned counsel appearing for the petitioner-victim argues that the learned Sessions Court has failed to appreciate the fact that during investigation, the accused had admitted that he had established physical relations with the victim and that he had refused to provide three out of four of his mobiles, which he had used in commission of offence. It is contended that the learned Sessions Court has failed to appreciate the recovery of obscene images and videos from the mobile phone of respondent no. 2/accused, which is mentioned in the supplementary chargesheet. It is also argued that the victim was stalked and followed by respondent no. 2 before and after the



registration of FIR. The learned counsel also submits that the parties have not undergone any marriage ceremony in accordance with Section 7 of Hindu Marriage Act, 1955 [hereafter '*HMA*'] and therefore, it cannot be held that the accused had married the petitioner-victim. It is submitted that even if for the sake of argument, it is admitted that the parties were married at Arya Samaj Mandir, the same was not a valid marriage. Further, it is contended that the petitioner, under threat, had signed some documents, when a petition under Section 9 of HMA had been filed by the accused. However, the petitioner vehemently disputes that the parties were married or that she had given her consent for sexual relationships, at any point of time.

6. On the other hand, the learned counsel appearing for the accused-respondent no. 2 argues that the accused and the victim had got married at Arya Samaj Mandir, Ghaziabad, U.P. and a marriage certificate in respect of the same was also issued by the Mandir. Further, they had got their marriage registered at the office of Marriage Registration Officer, Ghaziabad, U.P. on 16.02.2022 and the same fact has been verified by the concerned Investigating Officer. It is submitted on behalf of the accused that he had also filed a petition under Section 9 of HMA seeking restitution of conjugal rights and the petitioner herein had entered into compromise with the accused and agreed to live with him. It is further argued that despite knowing the fact that the victim had already married to the accused, the victim's family got her married again with one Rahul on



25.04.2022 as he belonged to a rich family. Thereupon, the accused had made a complaint to this effect dated 27.04.2022 at P.P. Nizampur and the present FIR is a counter blast to the said complaint lodged by the accused.

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

8. It is the case of the petitioner that rape was committed upon her on the false pretext of marriage. However, the record reveals that the victim and the accused had, in fact, solemnised their marriage at Arya Samaj Mandir, Ghaziabad, on 16.02.2022. A marriage certificate was also issued by the said Mandir, which has been placed on record. Thereafter, they got their marriage registered before the Marriage Registration Officer, Ghaziabad, U.P. on the same day, i.e., 16.02.2022. These facts and documents were duly verified by the concerned investigating officer during the course of investigation. The marriage was, therefore, not only solemnised but also officially registered before the competent authority.

9. It is also an undisputed fact that despite her marriage to the accused on 16.02.2022, the victim subsequently got married to one Rahul on 25.04.2022. The accused alleges that the said second marriage took place because Rahul belonged to a wealthy family, and in this regard, a written complaint was lodged by the accused on 27.04.2022 at P.P. Nizampur. It is only thereafter that the present FIR came to be filed by the victim.

10. Though the learned counsel for the petitioner argued that there



was no marriage between the parties, the fact that the marriage was registered before the competent Marriage Registration Officer and the documents were verified by the investigating agency, at this stage, points towards the existence of marriage between the parties. Once the parties stood married in February 2022, the allegation that the accused had previously established physical relations with the victim on a false promise of marriage does not survive. The accused herein did fulfil his promise by marrying the petitioner, and prior to that, by her own admission, the relationship between them was consensual and based on his promise to marry her.

11. Furthermore, the record shows that the accused/respondent no. 2 had filed a petition under Section 9 of HMA for restitution of conjugal rights before the learned Family Court, Narnaul, Haryana, on 07.03.2022. Along with that, a settlement agreement has also been placed on record, wherein the petitioner had agreed to reside with the accused in harmony as husband and wife, and on that basis, the accused agreed to withdraw his petition. This settlement agreement is signed by both parties and is in Hindi, running into two pages. The petitioner does not dispute her signatures on the agreement but claims that she signed it under fear and without understanding its contents. However, it is difficult to accept that she signed each page of two-page Hindi document without reading or understanding it. Moreover, the petitioner has another claim also, that she had signed the settlement agreement under the impression that doing so would end the marriage. This indicates that the petitioner did not wish to



continue the relationship, thereby suggesting that she was not under any misconception about the marriage continuing, and rather she wanted to put an end to their marriage, for which the subsistence of a marriage between her and the accused was a *sine qua non*.

12. The I.O. of the case had also handed over some documents to this Court during the course of hearing, which include the order sheets of Family Court, Narnaul, Haryana. A perusal of the same shows that the petitioner herein had herself appeared before the Family Court and had given a statement that she was willing to reside with the accused i.e. her husband and on the basis of joint statement of the parties, which bears their signatures also, the petition under Section 9 of HMA, seeking restitution of conjugal rights, was withdrawn by the accused. Moreover, the chargesheet clearly mentions that the order sheets of the Family Court, Narnaul, Haryana, handed over by the accused to the I.O., were verified during the course of investigation and were found to be genuine.

13. In view of these facts, once the petitioner herself admits to having had consensual physical relations with the accused on the premise that he would marry her, and the fact remains that such marriage was solemnised and registered, and she had thereafter also signed a written agreement expressing willingness to reside with him as his wife and had appeared before the concerned Family Court and given her statement to this effect, on the basis of which petition under Section 9 of HMA had been withdrawn, she cannot now be permitted to turn around and allege that the relationship was not consensual or



was based on a false promise of marriage. It is also significant to take note of the fact that the marriage ceremony was performed at Arya Samaj Mandir, for which her documents and affidavits were tendered, and later the marriage was registered at the Registrar's office, Ghaziabad, with all documents duly verified by the IO.

14. From the overall facts of the case, the essential ingredients of the offence of rape on the false pretext of marriage are not made out. The material on record does not support the inference that the accused never intended to marry the victim and only used the promise of marriage as a tool to exploit her. On the contrary, he did marry her, sought restitution of conjugal rights, and took steps consistent with an intention to maintain the marriage.

15. It is, however, clarified that this Court is not expressing any opinion on whether the marriage between the petitioner and respondent no. 2 is ultimately to be treated as a valid marriage or a void marriage or otherwise as per law. That issue, if raised, will be decided by the appropriate forum in accordance with law. The limited question before this Court is whether a charge under Section 376 of IPC is made out on the allegation that physical relations were established on a false promise of marriage. In such cases, the offence is attracted only when it appears that the accused had no intention of marrying the victim from the very beginning and he made a false promise of marriage only to obtain her consent for sexual relations. However, in the present case, the facts do not support such a conclusion, as the accused did go ahead and had married the victim,



which was also duly registered and verified during investigation.

16. Therefore, the learned Sessions Court committed no error in passing the order of discharge under Section 376 of IPC, and no interference is warranted with the said order.

17. Insofar as allegations of accused establishing physical relations with the victim on the strength of her inappropriate and obscene videos and photographs is concerned, the learned Sessions Court has observed as under:

“6. As per version of prosecutrix, the accused raped her by two *modus operandi* i.e. after blackmailing her to publish her nude photographs and videos or by inducing her to agree to sexual relationship on false promise of marriage.

7. As to the allegations of forcible sexual intercourse on the threat of publishing nude photographs / videos of prosecutrix are concerned, record reveals that the mobile phone of accused and prosecutrix were seized during investigation and were sent for expert examination. As per the FSL report dated 30.11.2023 (of mobile phone of prosecutrix), no obscene video was retrieved from her mobile phone and only few obscene images were retrieved.

8. This Court perused the said obscene images during course of this order and though few images of a female's chest area were found, however the face of the female was not captured in any of said images and therefore it cannot be said any of such images belonged to prosecutrix. Even otherwise, it is relevant to mention here that the said images were found in the mobile phone of the prosecutrix and not in the mobile phone of the accused and it is not the version of prosecutrix that accused had transmitted the same to her mobile phone. Therefore, the creation of said images cannot be attributed to accused.

9. Further, as per FSL report dated 26.12.2023, no data could be retrieved from the mobile phone of accused as same could not be turned on / unlocked despite efforts and therefore, there is no evidence on record to suggest that any nude video / images of prosecutrix were available with accused as claimed by her.



10. Since one of the versions of prosecutrix is based upon the fact that accused had raped her repeatedly after threatening to publish her nude video/ photographs which he had prepared and since no such nude video/photograph was recovered during course of investigation and therefore, it stands not proved that any such nude video/photograph ever existed so as to coerce prosecutrix to enter into sexual relationship with accused.”

18. This Court notes that the investigation in the present case, particularly the examination of the mobile phones of both the victim and the accused, did not reveal any material to substantiate the allegations made by the victim regarding the existence or use of obscene videos or photographs by the accused to coerce her into a sexual relationship. As noted by the learned Sessions Court, as per the FSL report dated 30.11.2023 pertaining to the mobile phone of the victim, no obscene video was found and only a few obscene images were retrieved. Importantly, these images did not display the face of the individual, and thus it could not be conclusively stated that the images belonged to the prosecutrix. Moreover, these images were found in the victim’s own phone and there is no allegation that the accused had ever sent these images to her or stored them himself. As far as the mobile phone of the accused is concerned, the FSL report dated 26.12.2023 records that the phone could not be accessed or unlocked, and no data could be retrieved from it despite best efforts. Therefore, the investigation has failed to recover or establish the existence of any such obscene video or photograph with the accused that could support the allegation that he had used the same to blackmail the prosecutrix or force her into physical relations.

19. In the absence of any such material, there is no evidence to



suggest that the accused was in possession of any obscene content involving the victim or that he had created or used such content to threaten her.

20. In order to proceed with the framing of a charge, the Court must be satisfied that there exists a *prima facie* case against the accused and that the material on record raises a grave suspicion of the commission of the offence. However, in the present case, neither the FSL reports nor any other material gathered during the investigation discloses the existence of such a *prima facie* case or strong suspicion that the accused had committed rape by blackmailing the victim using her obscene images or videos. In such circumstances, there is no basis to frame charge for offence under Section 376 of IPC against the accused on this ground as well.

21. As far as discharge of accused for offence under Sections 354D and Section 201 of IPC is concerned, the reasoning of the learned Sessions Court is as under:

“18. Further, as to the offence u/s 354D IPC is concerned, though the prosecutrix stated in her statement u/s 164 Cr.PC that accused used to follow her and also pressurized her to elope with him, however, the allegations on that count are general and vague in nature. That apart, as discussed at paragraph no. 11 & 12, the accused and prosecutrix married each other at Arya Samaj Mandir and she herself had given a letter dated 01.02.2022 that she wants to marry accused. Therefore, seen in the light of aforesaid circumstance, no grave suspicion arises against accused so as to charge him for offence u/s 354D IPC.

19. Lastly to the offence u/s 201 IPC, no charge for said offence is made out for want of any evidence in support of said offence.”



22. In the given facts and circumstances of the case, this Court finds no infirmity with the reasoning adopted by the learned Sessions Court while discharging the accused under Sections 354D and 201 of IPC. The allegations made under Section 354D of IPC were vague and unsupported by specific details, particularly in light of the undisputed fact that the victim herself expressed willingness to marry the accused and they had later also married each other and had got the marriage registered. Similarly, there was no material on record to support the commission of any act attracting Section 201 of IPC. There is thus no strong suspicion against the accused warranting framing of charge for either of these offences.

23. In view of the foregoing discussion, this Court finds no infirmity with the impugned order on charge.

24. The present petition, along with pending application, is accordingly dismissed.

25. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**MAY 13, 2025/ns**