



2025:DHC:8445



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 18.09.2025***CRL.REV.P. 663/2017**

STATE (NCT) OF DELHI

.....Petitioner

Through: Mr. Manoj Pant, APP for the  
State with Inspector Gurdeep  
Kaur and SI Jyoti.

versus

VIKAS JAIN

.....Respondent

Through: Ms. Nandita Jha, Advocate

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

1. By way of this petition, the State has assailed the order of discharge dated 12.01.2017 [hereafter '*impugned order*'] passed by the learned Additional and Sessions Judge/SFTC-2, (Central), Tis Hazari Courts, Delhi [hereafter '*Sessions Court*'] in case arising out of FIR bearing no. 96/2016, registered at Police Station Maurice Nagar, Delhi, for the commission of offence punishable under Sections 376/506 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. Briefly stated, facts of present case are that the FIR had been registered on the complaint of the prosecutrix, who alleged that she had been introduced to the respondent-accused by one Mr. Satish Sharma. Both the prosecutrix and the accused had been working in



2025:DHC:8445



the same office. It was alleged that on 19.07.2013, the accused had called her to Delhi University, where he had served her a cold drink laced with sedatives and had thereafter taken her to 'Bonta Park', where he had allegedly committed sexual intercourse with her and had threatened her not to lodge any complaint against him. Thereafter, the accused had promised to marry her, and the prosecutrix had remained in relationship with him from 19.07.2013 till 18.03.2016. It was also alleged that during this period, on 08.02.2014, the accused had got her pregnancy terminated at Moral Hospital, Yamuna Vihar, Delhi. Further, it was alleged by the prosecutrix that on 02.04.2016, she had come to know that the accused was going to marry another girl. On the basis of the aforesaid allegations, the present FIR alleging commission of rape was registered against the respondent on 19.04.2016.

3. After completion of investigation, charge-sheet was filed against the respondent-accused for commission of offence under Sections 376/506 of IPC before the learned Sessions Court. Pursuant thereto, the learned Sessions Court, *vide* the impugned order dated 12.01.2017, discharged the accused in the present case after observing that there was no evidence against him.

4. The State has preferred this petition, aggrieved by the aforesaid order. The learned APP appearing for the State has argued that the prosecutrix, in her statements recorded under Sections 161 and 164 of Cr.P.C., had consistently and categorically supported the prosecution case and reiterated the allegations as set out in the FIR. Despite the



2025:DHC:8445



availability of such material, the learned Sessions Court had proceeded to pass an unreasoned order on charge without proper application of facts and law. It is argued that the impugned order does not disclose any consideration of the evidentiary value of the prosecutrix's statements, which at the stage of framing of charge are sufficient to proceed against the accused. The learned APP has further contended that the Sessions Court also erred by deciding the question of charge without awaiting the report from the Forensic Science Laboratory (FSL), which is a vital piece of material evidence and has since been placed on record before this Court. It is further submitted that the approach of the learned Sessions Court in passing the order on charge was mechanical, as the order neither reflects any application of judicial mind nor records reasons to indicate that the material collected during investigation had been examined, which renders the impugned order unsustainable in the eyes of law.

5. The learned counsel appearing for the respondent-accused has, on the other hand, argued that the accused has been falsely implicated in the present case, as the prosecutrix was already married to one 'K', which is evident from the marriage certificate issued by Arya Samaj, Jamuna Bazar, Delhi, placed on record, showing that the said marriage had been solemnized on 11.02.2007. It is further pointed out that the prosecutrix also has a daughter from the said marriage. In these circumstances, it is submitted that the allegation of sexual relations on the false pretext of marriage is wholly untenable, as there could not have been any promise to marry when the prosecutrix



herself was already legally wedded to another man at the relevant time, and therefore the continuation of criminal proceedings against the respondent amounts to abuse of the process of law. It is thus prayed that the present petition be dismissed.

6. This Court has **heard** arguments addressed by the learned counsel appearing for either side, and has perused the material available on record.

7. Before advertng to the facts of the present case, this Court deems it appropriate to first discuss the settled principles of law governing the framing of charge. It was observed in *Asim Shariff v. National Investigation Agency: (2019) 7 SCC 148* by the Hon'ble Supreme Court that at the stage of framing of charge, the Court is not expected or supposed to hold a mini trial for the purpose of marshalling the evidence on record, however, there must be a grave suspicion against the accused with respect to commission of alleged offence. The relevant observations in this regard read as under:

“18. Taking note of the exposition of law on the subject laid down by this Court, it is settled that the Judge while considering the question of framing charge under Section 227 CrPC in sessions cases (which is akin to Section 239 CrPC pertaining to warrant cases) 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; where 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 the charge; by and large if two views are possible and one of them giving rise to suspicion only, as distinguished from grave suspicion against the accused, the trial Judge will be justified in



discharging him. It is thus clear that while examining the discharge application filed under Section 227 CrPC, it is expected from the trial Judge to exercise its judicial mind to determine as to whether a case for trial has been made out or not. It is true that in such proceedings, the Court is not supposed to hold a mini trial by marshalling the evidence on record.”

8. The Hon’ble Supreme Court in *Ghulam Hassan Beigh v. Mohd. Maqbool Magrey*: (2022) 12 SCC 657, after discussing several judicial precedents, has summed up the law of framing of charge in following words:

“...Thus, from the aforesaid, it is evident that the trial court is enjoined with the duty to apply its mind at the time of framing of charge and should not act as a mere post office. The endorsement on the charge sheet presented by the police as it is without applying its mind and without recording brief reasons in support of its opinion is not countenanced by law. However, the material which is required to be evaluated by the Court at the time of framing charge should be the material that is produced and relied upon by the prosecution. The sifting of such material is not to be so meticulous as would render the exercise a mini-trial to find out the guilt or otherwise of the accused. All that is required at this stage is that the Court must be satisfied that the evidence collected by the prosecution is sufficient to presume that the accused has committed an offence. Even a strong suspicion would suffice...”

9. Once a charge-sheet is filed, the Court is required to examine the entire material placed before it, including the statements of the victim and other witnesses, as well as any documentary or electronic evidence, to determine whether a prima facie case is made out. It is well settled that the Court cannot act as a mere mouthpiece of the



2025:DHC:8445



prosecution and mechanically frame charges; it must apply its mind and proceed only where grave suspicion arises against the accused. Further, where the sole material is the statement of the victim, the Court is not precluded from considering other evidence on record to assess whether the allegations inspire confidence and justify framing of a charge for the offence alleged.

10. Thus, in light of the aforesaid judicial precedents, this Court proceeds to examine the impugned order on charge and the material placed on record to ascertain whether, considering the statements of the prosecutrix under Sections 161 and 164 of Cr.P.C., her medical examination, and other supporting documents, a *prima facie* case and grave suspicion sufficient to frame charges for commission of offence under Sections 376/506 of IPC is made out or not.

11. In the present case, the prosecutrix, in her statements recorded under Sections 161 and 164 of Cr.P.C., has alleged that the accused first established sexual relations with her after administering a sedative-laced cold drink in a park, and thereafter on several occasions on the false promise of marriage. However, apart from the statements of the prosecutrix recorded by the police and the Magistrate, no corroborative material has been brought on record by the investigating agency to substantiate these allegations. On the contrary, certain material collected during investigation appears to support the version of the accused rather than the prosecutrix.

12. This Court notes the allegation of the prosecutrix that the respondent had compelled her to undergo termination of pregnancy at



Moral Hospital, Yamuna Vihar, under the supervision of one Dr. Sangeeta. The investigation revealed that the hospital records had been destroyed in a fire on 30.11.2014, and the prosecutrix herself did not place on record any documentary proof to substantiate this allegation. In the absence of supporting material, the claim regarding termination of pregnancy remains uncorroborated.

13. Further, during investigation, when the prosecutrix was asked to identify the precise location in 'Bonta Park' where the first incident of sexual assault allegedly took place, she was unable to point out any such spot.

14. The prosecutrix has also alleged that the respondent repeatedly committed sexual assault upon her at Hotel Kanak Garden, Sonipat, Haryana, where advance bookings were purportedly made in the name of one Pravesh Kumar. However, the hotel records revealed that the mobile number furnished at the time of booking was 99\*\*\*\*\*, which was found during investigation to be that of the prosecutrix herself. When confronted with this fact, the prosecutrix offered no explanation as to how her phone number appeared in the booking records. On the other hand, the accused stated that it was the prosecutrix who had herself arranged the bookings, accompanied him to the hotel, and produced a forged identity card in the name of Pravesh Kumar. These circumstances prima facie suggest that the prosecutrix voluntarily booked the rooms and accompanied the accused to the said hotel.



2025:DHC:8445



15. The chargesheet further records that the prosecutrix had alleged that co-accused Satish Sharma had called her to Vikrant Café, Shakti Nagar, on 03.04.2016, 15.04.2016, and 19.04.2016, where he allegedly threatened her. Pursuant thereto, the Investigating Officer issued a notice under Section 91 Cr.P.C. to the manager of Vikrant Café to produce CCTV footage of the said dates. The manager responded that on 03.04.2016 and 15.04.2016 renovation work was ongoing in the restaurant and the CCTV cameras were not functional. CCTV footage of 19.04.2016 was, however, provided and examined, but it did not depict either the prosecutrix or co-accused Satish Sharma at the said location. In view of this, co-accused Satish Sharma was not arrayed as an accused in the chargesheet.

16. Coming now to the aspect of rape alleged to have been committed on the false pretext of marriage, this Court finds that the settled position of law is that for an offence of rape to be made out on such a ground, it must be established that the consent of the prosecutrix was obtained by a promise of marriage which was false from its very inception, and that the accused never harboured any genuine intention of marrying her. The distinction consistently drawn in judicial precedents, including the decision of the Hon'ble Supreme Court in ***Pramod Suryabhan Pawar v. State of Maharashtra: (2019) 9 SCC 608***, is that a mere subsequent failure to fulfil a promise, or circumstances that render marriage impracticable at a later stage, would not by themselves amount to rape.



17. Most recently, the Hon'ble Supreme Court in ***Pradeep Kumar Kesarwani v. The State of Uttar Pradesh & Anr: Crl. Appeal No. 3831/2025*** has observed as under:

“13. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are of the view that the Additional Chief Judicial Magistrate committed an error in passing the summoning order. The High Court too overlooked the relevant aspects of the matter while rejecting the Section 482 application. It is very apparent on a plain reading of the complaint, more particularly, considering the nature of the allegations that the same doesn't inspire any confidence. There is no good explanation offered, why it took four years for the respondent no.2 to file a complaint.

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18. There is a clear distinction between rape and consensual sex and in a case where there is a promise of marriage, the Court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the latter falls in the ambit of cheating or deception.”

18. It is significant to note that the prosecutrix was already legally married to one 'K', with a marriage certificate issued by Arya Samaj, Jamuna Bazar, Delhi, evidencing the solemnization of marriage on 11.02.2007. The said certificate was produced by the prosecutrix herself before the I.O. during the course of investigation. It also stands admitted that the prosecutrix has a daughter from that marriage. Though it has been her case that she was separated from her husband, there is nothing on record to suggest that the said marriage had ever been dissolved in accordance with law. Thus, during the subsistence of her first marriage, the prosecutrix was legally incapable of contracting a valid marriage with the respondent.



19. In such a factual backdrop, the allegation that the prosecutrix consented to sexual relations on the belief that the accused would marry her loses credibility. Even assuming such a promise had been made, it could not have been legally enforceable, as the prosecutrix herself was disentitled under law to enter into a valid matrimonial alliance during the subsistence of her earlier marriage. Therefore, the very foundation of her claim that her consent was vitiated by a false promise of marriage is undermined.

20. In this Court's view, the facts of the present case, therefore, do not disclose a situation where the accused held out a false promise of marriage with the intention of inducing the prosecutrix to consent to sexual relations. Rather, the record *prima facie* indicates that the prosecutrix voluntarily engaged in a relationship with the accused over a considerable period of time, despite her own subsisting marriage and the existence of a child from that wedlock. The element of deception, which is essential to bring such cases within the ambit of Section 375 of IPC on the ground of a false promise of marriage, is conspicuously absent.

21. Recently, this Bench in *Ankit Raj v. State of NCT of Delhi & Ors.*: 2025:DHC:7721, while quashing an FIR registered under Section 376 of IPC on false pretext of marriage, had observed as under:

**“Proliferation of FIRs under Section 376 of IPC on Broken Relationships**

26. This Court cannot lose sight of the fact that the criminal justice system is increasingly being burdened with FIRs for commission of offence under Section 376 of IPC where



allegations of sexual exploitation are levelled on the ground of false promise of marriage, often after prolonged periods of consensual relationships. Many such cases come before the Courts where the parties, being majors, have voluntarily engaged in sexual relations over a span of time, and when the relationship eventually fails – whether due to incompatibility or any other differences – allegations of rape are pressed. To permit every such failed relationship to be converted into a criminal prosecution for rape would be contrary not only to the constitutional vision of justice, but also to the very spirit and object of the law of sexual offences.

27. The law governing offence of rape is intended to protect the bodily integrity and autonomy of women and to punish those who exploit them by force or by deception which vitiates free consent. It is not designed to become a tool in disputes where two consenting adults, fully aware of their choices and the attendant consequences, subsequently fall apart. Adults entering into intimate relationships must take responsibility for the decisions they voluntarily make, including the emotional, social, or legal risks inherent in such relationships. When a complainant, being an educated and independent woman, willingly continues to engage in such a relationship even with knowledge of the petitioner's marital status, it cannot thereafter be said that she was misled or exploited in law."

22. In view of these circumstances, and in light of the law laid down by the Hon'ble Supreme Court, this Court is of the opinion that the prosecution has failed to *prima facie* establish that the consent of the prosecutrix was obtained on a false promise of marriage. Consequently, the allegations of rape against the accused on this count are unsustainable.

23. Therefore, in view of the foregoing discussion, this Court is of the considered opinion that the learned Sessions Court has rightly concluded that no *prima facie* case for the offence of rape is made out against the respondent. However, this Court is also of the opinion that



2025:DHC:8445



the impugned order neither discusses the facts of the case nor does it assign reasons for discharging the accused, except stating that only statement under Section 164 of Cr.P.C. is not sufficient to frame charges when there is no other material, yet considering the overall facts and evidence that has come on record during the course of investigation, this Court finds no reasons to interfere with the impugned order.

24. The present petition is accordingly dismissed.

25. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**SEPTEMBER 18, 2025/A**

*T.S./T.D.*