

Manjeet @Sonu vs State (Nct Of Delhi) on 20 December, 2021

Author: Subramonium Prasad

Bench: Subramonium Prasad

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.REV.P. 412/2021
MANJEET @SONU

Through

Mr. S B Sharma, Mr. Ra
Mr.Yashwant Gahlot, Ad

versus

STATE (NCT OF DELHI)

Through

Mr. Amit Chadha, APP f
with SI Anita, Police
Mr. Dhruv Shukla and M
Shukla, Advocate for t

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
ORDER

% 20.12.2021 CRL.M.A. 19754/2021 (Exemption) Allowed, subject to all just exceptions.

CRL.REV.P. 412/2021 & CRL.M.As. 19755/2021, 19756/2021

1. The petitioner seeks to challenge the order dated 17.01.2020 passed by the learned Additional Sessions Judge, Dwarka Courts framing charges under Section 341, 343, 363, 506, 353, 376, 34 IPC read with Section 4 of the POCSO Act in FIR No. 371/2019 dated 29.08.2019 registered at Police Station Chhawala.

2. The entire discussion on the arguments on charge reads as under:-

"Arguments on charge heard.

There exists a prima facie case u/s 341/363/506/343/34/376 IPC & 5(1) r/w section 6 POCSO Act against accused.

Accordingly, charge framed separately and read over to the accused in Hindi who after understanding the same, pleaded not guilty and claimed trial. List for statement of accused u/s 294 Cr.P.C. on NDOH.

Child victim mentioned at serial no.1 of list of prosecution witnesses and IO be summoned for PE on 27.03.2020.

Since the evidence of child victim is to be recorded in vulnerable witness room in Dwarka Court, copy of this order be sent to the Incharge, Vulnerable Witness Room, for necessary arrangements including pre-trial visit of vulnerable witness to the court and for recording of the statement of child victim, vulnerable witness there."

3. Though it is trite law that at the time of framing of charge, the court does not examine and evaluate in depth the material placed on record by the prosecution nor is it for the court to consider the sufficiency of the materials to establish the offence alleged against an accused, but there has to be some application of mind by the Trial Court on the material before charges are framed.

4. There is no discussion at all in the impugned order as to what are the materials against the petitioner and how has the Trial Court come to a conclusion that there exists a grave suspicion against the petitioner warranting framing of charges. The learned Trial Court cannot act as a post office or a mere mouthpiece of the prosecution. Though, the court is not expected to go deep into probative value of material on record, it has to find out whether a prima facie case is made out against accused. The order should disclose ex facie that the court had not proceeded mechanically in framing the charge mainly because the accusation had been made by the prosecution against the accused persons, but it had looked into the material brought on record till then. This would be sufficient compliance with the requirement of law.

5. The said position has been reaffirmed time and again by the Supreme Court in *State of Orrisa v. Habibullah Khan*, (2003) 12 SCC 129, *Sultana Begum v. State of Punjab*, (2015) 16 SCC 212 and in *Akbar Hussain v. State of Jammu & Kashmir & Anr.*, (2018) 16 SCC 85.

6. Resultantly, the revision petition is allowed. The matter is remanded back to the Trial Court to once again hear the parties and pass a reasoned order and whatever material grave suspicion.

7. Since the FIR is of the year 2019, the learned Trial Court is requested to hear arguments on charge as expeditiously as possible preferably within four weeks from today.

SUBRAMONIUM PRASAD, J DECEMBER 20, 2021 hsk