

Sumit vs The State Govt. Of Nct Of Delhi on 16 February, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.REV.P. 104/2024
SUMIT

THE STATE GOVT. OF NCT OF DELHI
Through: Mr. Yudhvir Singh
State with Insp. Ajay Kumar
PS: Najafgarh.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

% 16.02.2024 CRL.M.A. 2184/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

3. This Criminal Revision Petition has been filed on behalf of the Petitioner under Sections 397/399/401 Cr.P.C. read with Section 482 Cr.P.C. challenging order dated 18.10.2023 passed by learned Additional Sessions Judge-04, South-West, Dwarka Court, Delhi, in Sessions case No.359/2021 in case FIR No. 68/2021 dated 09.02.2021 registered under Sections 498-A/306/304-B/34 IPC at PS: Najafgarh.

4. Factual matrix to the extent necessary and as emerging from the petition is that the present FIR was registered on a joint statement of the father, mother and brother of the deceased recorded by the learned SDM on 08.02.2021, alleging that the deceased married accused Mukesh on This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 08/03/2024 at 20:56:49 29.06.2020 and all possible articles were given in dowry during marriage, however, the in-laws of the deceased were never satisfied and kept demanding money, gold chain and motorcycle. The deceased was constantly subjected to cruelty and even on 07.02.2021 i.e. a day prior to the date of the alleged incident of suicide on 08.02.2021, mother-in-law of the deceased demanded dowry and

threatened to end the relationship with the deceased if the demands were not fulfilled. After completion of investigation, Charge Sheet and supplementary Charge Sheet have been filed and by the impugned order dated 18.10.2023, charges have been framed against all the accused persons under Sections 498A/306/ 304B/34 IPC. Witnesses at serial nos. 6, 7, 8, 9, 23 and 24 and the IO have been summoned for evidence. Accused pleaded 'not guilty' and claimed trial.

5. Assailing the impugned order of framing of charge, counsel for the Petitioner states that Petitioner is the younger brother of the husband of the deceased and is innocent and has been falsely implicated. The impugned order is wholly non-speaking and does not disclose the reason that weighed with the Trial Court to frame the charges against the Petitioner. FIR was registered on a joint statement of the father, mother and brother of the deceased before the SDM, wherein no specific role was assigned to the Petitioner and there were no allegations relating to cruelty and demand of dowry. Supplementary statements were recorded 09 days after the joint statement recorded on 08.02.2021, only to fill the lacunas and gap in the prosecution story and falsely implicate the Petitioner. While it is a settled law that at the time of framing of charge, detailed reasons are not required to be given by the Court, however, the order must indicate that there is some material on record, which is sufficient to put the accused to trial. The other reason which makes the impugned order vulnerable is the factually wrong This is a digitally signed order.

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6. Learned APP contests the petition and argues that while considering the question of framing charges, Court has to be only satisfied that there is sufficient material on record which discloses grave suspicion against the accused. Court is not to consider whether there is sufficient ground for conviction and therefore only a prima facie view is required to be taken depending on the facts of each case. Court is not required to write a lengthy judgment while framing the charges and the impugned order indicates that Court has recorded its satisfaction based on the statement of the complainant and material documents that there is sufficient material to frame charges against all accused persons under Sections 498A/306/ 304B/34 IPC. There is no ground made out by the Petitioner warranting any interference by this Court.

7. I have heard learned counsel for the Petitioner and the learned APP for the State and examined the impugned order.

8. It is no longer res integra that at the stage of framing charges under Sections 227/228 Cr.P.C., Court is required to consider whether there is sufficient material on record to frame the charges. While doing so, Court has the power to sift and weigh the evidence for limited purpose of finding out whether or not a prima facie case is made out against the accused. The test to determine prima facie

case will differ from case to case. If the material This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 08/03/2024 at 20:56:50 placed before the Court discloses grave suspicion against the accused, the Court will be justified in framing charges and proceeding with the trial. No roving inquiry can be done into the pros and cons of the matter and the evidence is not to be weighed as if a trial is being conducted. Court is not to consider whether there is sufficient ground for conviction of the accused or the trial is sure to end in conviction. These are the observations of the Supreme Court in the judgment in the case of State (NCT of Delhi) v. Shiv Charan Bansal and Others, (2020) 2 SCC 290 and relevant passages are as follows:-

"I. Scope of Sections 227 and 228 CrPC

39. The court while considering the question of framing charges under Section 227 CrPC has the power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case has been made out against the accused. The test to determine prima facie case would depend upon the facts of each case. If 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 charges and proceeding with the trial. The probative value of the evidence brought on record cannot be gone into at the stage of framing charges. 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 disclose the ingredients constituting the alleged offence. At this stage, there cannot be a roving enquiry into the pros and cons of the matter, the evidence is not to be weighed as if a trial is being conducted. Reliance is placed on the judgment of this Court in State of Bihar v. Ramesh Singh, (1977) 4 SCC 39 : 1977 SCC (Cri) 533 where it has been held that at the stage of framing charges under Sections 227 or 228 CrPC, if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused had committed the offence, then the court should proceed with the trial.

40. In a recent judgment delivered in Dipakbhai Jagdishchandra Patel v. State of Gujarat, (2019) 16 SCC 547 decided on 24-4-2019, this Court has laid down the law relating to framing of charges and discharge, and held that all that is required is that the court must be satisfied with the material available, that a case is made out for the accused to stand trial. A strong suspicion is sufficient for framing charges, which must be founded on some material. The material must be such which can be translated into evidence at the stage of trial. The veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged at This is a digitally signed order.

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Server on 08/03/2024 at 20:56:50 this stage, nor is any weight to be attached to the probable defence of the accused at the stage of framing charges. The court is not to consider whether there is sufficient ground for conviction of the accused, or whether the trial is sure to end in the conviction."

9. From a conjoint reading of the two passages from the judgment of the Supreme Court, it is clear that while the Court is not to go into the probative value of the evidence brought on record at the stage of framing of charges, as if it is determining whether there is sufficient ground for conviction, but at the same time the Court is required to evaluate the material and documents on record to arrive at a prima facie view that the facts emerging from the material on record, taken at their face value, disclose the ingredients constituting the alleged offence. The suspicion must be 'grave suspicion' founded on the material on record. It needs no reiteration that framing of charges is an important step and stage in a trial. Depending on the material on record and the arguments addressed by the State and the accused, Court decides the charges to be framed, if any, and thus further course of the trial is determined and chartered. Therefore, it is imperative that the order by which the Trial Court frames the charge(s) must indicate what material was sufficient at that stage to arrive at a finding, albeit prima facie, of strong suspicion that the accused has committed the offence.

10. The impugned order in the present case is non-speaking and unreasoned and apart from simply recording that there is sufficient material on record to frame charges, there is no reasoning which even remotely points to the material on record, which in the Court's view was sufficient to arrive at a conclusion albeit prima facie that there was strong suspicion that Petitioner committed the offences alleged and/or the ingredients of the offences alleged to be committed were made out, to put the Petitioner to trial. Learned APP is right in his contention that while framing charges, This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 08/03/2024 at 20:56:50 Court is not required to deliver lengthy judgments or give detailed reasons, nonetheless, there must be some reason discernible from the order justifying the conclusion that the accused be put to trial. It is settled law that reasons form the heart and soul of an order and it is only when reason is recorded in the order by the Court that the higher Court is in a position to examine the correctness of the order and a litigant is in a position to know what weighed with the Court to deliver a decision against or in his favour. The Supreme Court has repeatedly held that while framing charges, Court has the power to sift and weigh the evidence to find out if a prima facie case exists and that the Court must be satisfied with the material available that there is strong suspicion against the accused to put him to trial. This exercise cannot be in a vacuum and the reasons forming the basis of the decision must find their place in the order framing the charge. Impugned order does not indicate any basis for the satisfaction arrived at by the Trial Court and fails to pass muster. It may also be penned down that there is an inherent contradiction in the impugned order. It is rightly urged by the counsel for the Petitioner that having recorded in the earlier part of the order that arguments on charge were addressed by the accused, the Trial Court recorded that the learned counsel for the accused persons submitted that he was conceding to the charges and was not opposing the framing

of charges against all the accused persons. There is an obvious error on this score also in the impugned order.

11. In view of the aforesaid, the impugned order dated 18.10.2023 is hereby set aside. Court is apprised that the next date of hearing before the learned Trial Court is 15.05.2024. Accordingly, the Trial Court is directed to re-hear the arguments on charge and pass a fresh order, uninfluenced by the earlier order passed by the Trial Court and/or this order.

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12. It is made clear that this Court has not expressed any opinion on the merits of the case and it is open to the Trial Court, after hearing the parties and giving them opportunity to address arguments, to pass an appropriate order, in accordance with law and based on the material on record as well as the facts and circumstances of the case.

13. Revision petition is allowed and disposed of.

JYOTI SINGH, J FEBRUARY 16, 2024/KA/shivam This is a digitally signed order.

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