



2024:DHC:4286



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 24.05.2024

+ **CRL.M.C. 4829/2022 & CRL.M.A. 19398/2022**
MANOJ RANA

..... Petitioner

Through: Ms.Shakti Chaturvedi, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr.Shoaib Haider, APP along
with Mr.Akash Awana, Adv.

SI Mohd Intzar, PS IP Estate
Delhi.

Mr.Kunal Mittal & Mr.Shiv
Dutt Kaushik, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the order dated 14.07.2022 passed by the learned Additional Sessions Judge-03, Central-District, Tis Hazari Courts, Delhi (hereinafter referred to as the 'Additional Sessions Judge') in Criminal Revision No.422/2019 titled as *Ms. M v. The State*



offences under Sections 506/509/34 of the IPC. The same was challenged by way of a Revision Petition by the victim. The learned Additional Sessions Judge allowed the said Revision Petition by observing that while the intention is one of the main ingredients of the offence under Section 509 of the IPC, it has to be gathered from the surrounding circumstances and is, in any case, a matter of evidence which can be proved during the trial. The learned Additional Sessions Judge, therefore, held that there is *prima facie* evidence to proceed under Section 506 and Sections 509/34 of the IPC against the petitioner herein. The learned Additional Sessions Judge directed for the Trial Court to proceed with the proceedings in accordance with law.

Submissions of the learned counsel for the petitioner

5. The learned counsel for the petitioner submits that there was no evidence on record that would suggest the invocation of Section 509 of the IPC against the petitioner. She submits that even the words that are attributed to have been spoken, were by the co-accused and not by the petitioner.

Submissions of the learned counsel for the complainant and the learned APP

6. On the other hand, the learned counsels for the respondents submit that no fault can be found in the Impugned Order. They submit that the allegations made in the FIR clearly drew the offence under Section 509 of the IPC. They submit that both the accused were standing together and were passing



the comments alleged against the victim. They are also alleged to have made other gestures against the victim.

7. They submit that, in any case, these were matters of trial and the learned Trial Court had erred in discharging the petitioner at the stage of framing of charge itself.

Analysis and Findings

8. I have considered the submissions made by the learned counsels for the parties.

9. I would first remind myself of the test to be applied at the stage of framing of the charge. At the stage of framing charge/considering the application filed by the accused seeking discharge, the detailed analysis of the evidence is not to be carried out by the Court. The only test to be applied is whether there is sufficient cause made out by the prosecution to proceed against the accused. As the Supreme Court has held in its judgment in *State of Gujarat v. Dilipsinh Kishorsinh Rao*, 2023 SCC OnLine SC 1294, what is required while considering framing of charge and discharge, is only the satisfaction of the court as to whether a *prima facie* case is made out against the accused to stand trial with the material available. I may quote from the judgment as under:

“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to



probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.”

10. Section 509 of the IPC reads as under:-

“509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.”

11. A reading of the above provision would show that an essential ingredient of the offence is the “*intention*” to insult the modesty of any woman. Such intention is to be assessed on the basis of numerous factors including the act itself, the context in which the action occurred, choice of words or gestures, surrounding circumstances, the background of the accused, the complainant’s perspective, etc..

