



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*



(*Govt. of NCT of Delhi*) & *Anr.*, allowing the said Revision Petition filed by the victim.

2. The said Revision Petition was filed challenging the order dated 05.01.2019 passed by the learned Metropolitan Magistrate-03, Central-District, Tis Hazari Courts, Delhi (hereinafter referred to as the 'Trial Court') in the case arising from FIR No.393/2014 for offence under Sections 509/506/34 of the Indian Penal Code, 1860 (in short, 'IPC'), Police Station: I.P. Estate, Delhi, whereby the learned Trial Court discharged the petitioner herein for offence under Sections 506/509/34 of the IPC.

### **Factual Background**

3. Briefly stated, the above FIR had been filed on the complaint of the victim, stating that she is a gymnast trainee at the stadium. The petitioner here was her gymnastics coach. On 02.09.2014, at about 6:45 PM, the petitioner along with a co-accused, mentally harassed her by making remarks about her inner-wear and made fun of her by uttering words which outraged her modesty. They also made several gestures towards her and continued to make fun of her in abusive slang which offended her dignity and self-respect. When she proceeded to file the complaint to the Chief Coach, instead of apologizing for his conduct, the petitioner threatened her by saying '*Tune galat aadmi se panga liya hai, tujhe to mai batunga*'.

4. As noted hereinabove, the learned Metropolitan Magistrate proceeded to discharge the petitioner herein of







*merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.*

**xxxx**

**10.** *It is settled principle of law that at the stage of considering an application for discharge the court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged. This Court in State of Tamil Nadu v. N. Suresh Rajan, (2014) 11 SCC 709 adverting to the earlier propositions of law laid down on this subject has held:*

**“29.** *We have bestowed our consideration to the rival submissions and the submissions made by Mr. Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an*





*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..

