

IN THE COURT OF SH. SANJAY SHARMA-II : ADDL. SESSIONS JUDGE-03,
(CENTRAL): TIS HAZARI COURTS, DELHI

Criminal Revision No. 545/2022

CNR No.: **DLCT01-014251-2022**

Tausif-ul Hassan



..... Petitioner

VERSUS

The State (Govt. of NCT of Delhi)

..... Respondent

Date of Institution : 12.10.2022
Date of Arguments : 20.10.2022
Date of Judgment : 29.10.2022

J U D G M E N T

1. The criminal revision petition under Section 397 of '*The Code of Criminal Procedure, 1973*' (Hereinafter referred to as '**Cr.PC.**') is directed against order dated 20.08.2022 (Hereinafter referred to as '**the impugned order**') arising from FIR No. 62/2019 under Section 354A/509 of '*The Indian Penal Code, 1860*' (In short '**IPC**') registered at PS Chandni Mahal titled as '*State vs. Toshif-Ul-Hassan*' whereby Ld. MM / Mahila Court-01 (Central), Tis Hazari Courts, Delhi (In short '**the trial Court**') framed charges under Section 354A/509 and 506 IPC against the petitioner.

BRIEF FACTS:

2. The case of the prosecution, as unfolded in the statement of the complainant, is that on 09.05.2019 at 07.30 p.m. in the house of the complainant, the petitioner used abusive language i.e. '*fuck off*' and threatened her.

3. The trial Court, *vide* impugned order, framed charges under Section 354A/509 and 506 IPC against the petitioner.

4. Feeling aggrieved and dissatisfied with the impugned order, the petitioner preferred the criminal revision petition.

5. I have heard arguments of Mr. Anis Ahmed, Advocate for the petitioner and Mr. Amit Dabas, Ld. Addl. PP for the State / the respondent and examined trial Court record.

6. Ld. Counsel for the petitioner contended that the petitioner did not utter any word or made any gesture or otherwise acted in any manner with the intention to insult modesty of the complainant. He contended that the petitioner has not criminally intimidated the complainant. He contended that the petitioner did not make any '*sexually coloured remark*'. He contended that the petitioner merely asked the complainant to leave the premises by stating the said word. He contended that meaning of the said word is defined in Cambridge Dictionary (UK) as '*.....To leave or go away, used specially as a rude way of telling someone to go away.....*'. He contended that the said word is not a '*sexually coloured remark*'.

7. Ld. Counsel for the petitioner contended that the said word is generally used in Society, Colleges and Universities. He contended that there is no *prima facie* case against the petitioner for framing of charges under Section 354A/509 and 506 IPC.

8. Ld. Addl. PP for the State contended that the word '*fuck off*' is a '*sexually coloured remark*'. He contended that the said word must be construed in its ordinary sense. He contended that the complainant has specifically stated, in her statement, that the petitioner used the said word. He contended that the petitioner shouted at the complainant and made her scare and fear for her life. He contended that the complainant, in her statement under Section 164 Cr.P.C., stated that the petitioner alongwith other persons entered into her house and threatened her and her family to throw them out. He contended that they also addressed the complainant as '*bazaru aurat*'. He contended that there is sufficient material to proceed against the petitioner.

9. It is trite to state that at the stage of framing of charge, the Court is required to ascertain as to there is ground for presuming that the accused has committed an offence, as provided under Section 240 Cr.P.C.

10. At this stage, the Court has to ascertain as to whether there is a *prima facie* case for proceeding against the accused.

11. It is a well settled law that at the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing of charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. Indeed, the Court has limited scope of enquiry and has to see whether any *prima facie* case against the accused is made out or not. At the same time, the Court is also not expected to mirror the prosecution story, but to consider the broad probabilities of the case, weight of *prima facie* evidence, documents produced and any basic infirmities etc.

12. Adverting to the facts of the case, the complainant has made specific allegation against the petitioner that he made the remark '*fuck off*'. She has specifically stated that the petitioner alongwith other persons called her '*bazaru aurat*'. The said word is an American vulgar slang. The said word is a offensive word. In Indian society, schools or colleges, this word is not used to ask anyone to leave or go away. Moreover, given the facts and circumstances of the incident, it cannot be said that the petitioner was merely intending to ask the complainant to leave or go away. In ordinary sense, the said word is abusive, offensive and humiliating. This Court does not find any merit in the contention of Ld. Counsel for the petitioner that dictionary meaning the said word is defined as '*to leave or go away*'. The said word is a '*sexually coloured remark*'.

13. There is a *prima facie* case that the petitioner used the said word with the intent to insult modesty of the complainant.

14. The complainant has specifically stated that the petitioner asked her to shut up and sit in a corner. She has specifically stated that the petitioner alongwith other persons threatened her and her family and also threatened to throw them out of the house.

15. There is sufficient ground for proceeding against the petitioner for offences under Section 354A/509 and 506 IPC.

CONCLUSION:

16. This Court does not find any material illegality, irregularity or jurisdictional error in the impugned order framing charges under Section 354A/509 and 506 IPC. Accordingly, the criminal revision petition filed by the petitioner is dismissed.

17. A copy of judgment alongwith trial Court record be sent to trial Court.

18. The criminal revision file be consigned to record room.

Announced in the open Court
on this 29th October, 2022

SANJAY SHARMA-II
Addl. Sessions Judge-03 (Central)
Tis Hazari Courts, Delhi

Tausif-ul Hassan vs. State

CNR No.: DLCT01-014251-2022

CrI. Revision No. 545/2022

29.10.2022

Present : Mr. Anis Ahmed, Advocate for the petitioner (*through Video Conferencing*).
Mr. Amit Dabas, Ld. Addl. PP for the State / the respondent.

Vide separate judgment, the criminal revision petition filed by the petitioner is dismissed. The criminal revision file be consigned to record room.

Sanjay Sharma-II
ASJ-03, Central District,
Tis Hazari Courts, Delhi
29.10.2022

NK