

12.01.2026

Present: Dr. Sarita Rani, Ld. Addl. PP for the State.

Accused in person on bail.

Sh.V.P. Singh and Sh.Prince Gupta, Id. Counsels for accused.

Arguments on the point of charge heard.

ARGUMENTS ON BEHALF OF ACCUSED

1. It is argued by the Ld. Counsel for accused persons that the accused has been falsely implicated. It is further argued that no offence under Section 74 & 75 BNS is made out against the accused. It is further argued that infact, the complainant and her husband manhandled with accused. It is further aruged that there are material contradictions in the complainat and statement recorded under Section 183 BNS of the complainant.

It is further argued that the CCTV footage which was not filed along with the charge sheet does not depict the happening of any such incident as alleged by the complainant and her husband. Thus, accused be discharge from the present case.

ARGUMENTS ON BEHALF OF STATE

2. On the other hand, Ld. Addl. PP for the State has argued that charge under Section 74/75(2)/75(3)/79/115(2) BNS

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is made out the accused prima facie on the basis of the charge-sheet and documents annexed.

COURT OBSERVATION/FINDINGS

3. At the very outset it is pertinent to note the case law on the point of charge and the considerations to be kept in mind for framing charge. It is a settled law that at the stage of charge, only prima facie case is to be looked into and the court is not to marshal the evidence and meticulous examination of the material on record is not required and the court is required to examine the question only prima facie. In the case of *Union of India Vs. Praful Kumar and Anr. (1979) 3SCC76* it was held as under:

- 1. that the judge while considering the question of framing the charges U/s 228 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.*
- 2. where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.*
- 3. the test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large, however, if two views are equally possible and the judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*
- 4. that in exercising his jurisdiction U/s 227 of the Code the judge which under the present Code is a senior and experienced Code cannot act merely as a post office or a*

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mouth piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This however does not mean that the judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

In the case of ***West Bengal Vs. Anil Kumar (1979)4 SCC 274*** the Hon'ble Supreme Court held that “*the standard of test, proof and judgment which is to be applied finally before finding the accused guilty or otherwise is not exactly to be applied at the stage of Section 227 or 228 of the Code....*”

From the above discussion it seems well settled that at the stage of charge court is required to evaluate the material documents on record with a view to finding out if the facts emerging there from taken at their face value disclose the existence of all the ingredients constituting the alleged offence *prima facie*.

4. In the case in hand, there are specific allegations against the accused. In her statement recorded under Section 183 BNS the complainant has stated “..... *ek aur aadmi jiska naam Dev hai, woh bhi rent par rehta hai. Usne hamare kapdo par kuda phenka tha, phir mere husband mana kiya usko iss baat par woh galiya dene laga. Usne mujhe randi bola aur hijda bola aur bola ki woh mujhe neeche sulayega. Mujhe aur galiya dene laga. Phir iske baad mein aur ladies se baat karne lagi tab woh sedeyo se uttar raha tha aur mere chest par haath mara aur galiya dene laga*

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aur neeche chala gaya. Phir mere husband se ladai karne laga, hatha pai ho gai. Hume aur bhi galiya di aur bola tumhe SC/ST Act mein phansa dunga, teri naukri chali jayegi aur tumhe naukri sikha dunga’.

5. In view of the specific allegations made by the complainant and after having gone through the FIR, statements of the witnesses recorded by the police, statements under Section 183 BNS of complainant and other material documents available on the record, a prima facie case under Section 74/75(3)/79/115(2) BNS is made out against accused and thus, they be charged with the above said offences. However, **no offence under Section 75(2) BNS is made out against the accused. Accordingly, accused is discharged for the offence under Section 75(2) BNS.**

6. Put up for framing of formal charge on 13.03.2026.

(Vandana)
Addl. Sessions Judge-02(North)
Rohini Courts Delhi
12.01.2026