

**IN THE COURT OF THE III ADDL. DISTRICT AND
SESSIONS JUDGE, RAMANAGARA**

:Present:

Sri.Gopal Krishna Rai T., B.A.(Law), LL.B.,
III Addl. District and Sessions Judge,
Ramanagara.

Dated this the 19th day of February 2018

S.C.No.86/2014

ACCUSED :

1. Paramahamsa Nithyananda
Swamy @ Rajashekarana, S/o.
Annamalai Arunachalam, 33
years, R/at. Nithyananda
Dhyanaapeeta, Kallugopanaahalli,
Bidadi Hobli, Ramanagara Taluk
& District.

2. Gopala Sheelam Reddy @
Nithya Bhakthananda, S/o.
Sheelam Mallareddy, 46 years,
R/at. Nithyananda Dhyanaapeeta,
Kallugopanaahalli, Bidadi Hobli,
Ramanagara Taluk & District.

3. Shiva Vallabhaneni @ Nithya Sachidanand, S/o. Dr.Sathyanarayanamurthy, 47 years, R/at. Nithyananda Dhyanapeeta, Kallugopanahalli, Bidadi Hobli, Ramanagara Taluk & District.

4. Danashekaran @ Nithya Sadananda, S/o. Thiruvengadam, 51 years, R/at. Nithyananda Dhyanapeeta, Kallugopanahalli, Bidadi Hobli, Ramanagara Taluk & District.

5. Smt.Ragini @ Maa Nithya Sachidananda, W/o. Shivavallabaneni @ Nithya Sachidananda, 44 years, R/at. Nithyananda Dhyanapeeta, Kallugopanahalli, Bidadi Hobli, Ramanagara Taluk & District.

6. Smt.Maa Nithyananda @ Jamunarani, W/o. Danashekaran @ Nithya Sadananda, R/at. Nithyananda Dhyanapeeta, Kallugopanahalli, Bidadi Hobli, Ramanagara Taluk & District.

(A1 & A2 – Sri.C.V.N/P.N, Adv.
A3 & A5 – Sri.R.B.N/M.M, Adv.
A4 & A6 – Sri.S.G.M/M.M, Adv.)

- V/s. -

COMPLAINANT :

Bidadi police station,
Ramanagara District.

(By Learned Special Public Prosecutor)

**ORDERS ON APPLICATION FILED BY THE
ACCUSED U/S 227 and 228 OF Cr.P.C., AND ON
FRAMING OF CHARGE AGAINST ACCUSED Nos.1
TO 6 AS REQUIRED U/S 228(1)(b) OF Cr.P.C.**

At the outset, it is significant to mention that, the Investigating Officer has filed the charge-sheet against accused No.1 Paramahansa Nithyananda Swamy @ Rajashekarana S/o. Annamalai Arunachalam for the offence punishable u/s 417, 376, 377, 415, 506(1), 201, 120B of IPC.

2. The Investigating Officer has made accusation against accused No.2 Gopala Sheelam Reddy @ Nithya Bhakthananda S/o. Sheelam Mallareddy for the offence punishable u/s 212 and 120B and 506 of IPC.

3. The Investigating Officer has made accusation against accused No.3 Shiva Vallabhaneni @ Nithya Sachidananda S/o. Dr.Sathyanarayanamurthy for the offence punishable u/s 201 and 120B of IPC.

4. The Investigating Officer has made accusation against against accused No.4 Danashekaran @ Nithya Sadananda S/o. Thiruvengadam for the offence punishable u/s 201, 120B, 506 of IPC.

5. The Investigating Officer has made accusation against accused No.5 Smt.Ragini @ Ma Nithya Sachidananda W/o. Shivavallabhaneni @ Nithya Sachidananda for the offence punishable u/s 37 r/w 376, 377 and 120B of IPC.

6. The Investigating Officer has made accusation against accused No.6 Smt. Ma Nithyananda @ Jamunarani, W/o. Danashekaran @ Nithya Sadananda for the offence punishable u/s 120B, 376, 377, 506 r/w Sec.37 of IPC.

7. Background of the case :-

a) The accused No.1, 4 and 6 have formed and registered a trust by name Nithyananda Dhyanapeeta Trust as founder trustees. Later they have extended their branches in abroad by different names and accused No.2 has joined the Nithyananda Foundation in DUARTE. Accused No.3 is working as international secretary for all Nithyananda organization. Accused No.5 has worked as P.A to accused No.1 in U.S and Bidadi Ashrama. Accused Nos.4 and 6 are married couple from Tamil Nadu who joined Bidadi Ashram since inception as staunch disciples. Later accused No.4 became an official Secretary of accused No.1 and Ashram. Accused No.6 is the Personal Assistant to accused No.1. The accused Nos.1 to 5 were having full knowledge of all the activities of the Ashram.

b) One K.Lenin being captivated by the speech and preaching of accused No.1, in the year 2006 had joined and stayed in the Ashrama of accused No.1 and accused No.1 has renamed him as Nithya Dharmananda and he was allowed to work as his car

driver. In the year 2005, CW.3 has joined the Ashrama along with her parents being fascinated to the spiritual speeches of accused No.1. There were about 250 men and women followers in the age group of 18 and 60 years, who stay in the Ashrama by performing seva. The persons amongst them were CW.8 to CW.10 and CW.119 who joined the Ashrama and was rendering their loyal services to accused No.1.

c) CW.1 K.Lenin could able to watch some illegal and bad-manner activities of accused No.1. Accused No.1 used to misbehave with the devotees, more particularly with young females. CW.1 has made enquiry with CW.3 and he did not give true account to him as she was totally under the cult control of accused No.1. Later on, they have plotted an idea to plant a hidden camera in the bedroom of accused No.1 and got solid evidence of accused No.1 having sexual activities with Ms.Ranjita one of the Ashramates. Being shocked of the fact and ruined of his deep faith and trust reposed on accused No.1, CW.1 left the Ashram. Added with an intention to save the innocent followers from the clutches of accused No.1, had copied

the video to many CDs and dropped into the offices of TV channels.

8. Facts of the case in brief:

a) On 2nd and 3rd March 2010, many TV channels have telecasted the episode on the digital media. On 04.03.2010, CW.1 has lodged the complaint before CCB, Chennai Police and a case is registered in Cr.No.112/2010 for the offences punishable u/s 295(A), 376, 377, 420, 506(1) of IPC. On the same day, another complaint was registered based upon a complaint of T.M.Vishwanath of Kovai in Cr.No.16/2010 for the offence punishable u/s 295(A) and 420 of IPC. Later, on the point of jurisdiction both the cases are transferred to Bidadi police station. As per the directions of DGP, Karnataka, the investigation of both the cases are referred to CID police.

b) Later, on 17.08.2010 CW.3 gave her statement to the Investigating Officer, explaining how she was exploited by the accused No.1 with the aid and assistance of other accused persons and on using the system of cult over her and accused No.1 by

brainwashing and deceitfully has assaulted her sexually.

c) Another witness i.e., CW.119 who is residing in U.S has also contacted the Investigating Officer and gave his statement through Skype. His statement reveals that, accused No.1 has debauched him by way of unnatural sexual activities and has committed unnatural offences against him. The statement of CW.119 would also reveal that, accused No.1 has criminal intimidation to take away his life.

d) It is alleged that, the accused persons used to get executed a Non-Disclosure Agreement and the same was got signed without giving an opportunity to read its contents. Few NDAs were recovered from the custody of CW.9 who was asked by the accused persons to hand it over to them after the exposé of the episode for destruction. Accused No.6 has signed these NDAs on behalf of Ashram. CW.102 is another public witness before whom the accused No.1 has made extra judicial confession of his criminal activities. The accused No.1 has published books which are seized and produced. Accused No.1 used these books

to captivate the victims and to hyptonize them. The accused No.1 on producing an unauthentic certificate has taken a plea that, he is incapable of performing sexual acts. But, based upon the directions of Hon'ble Apex Court, the team of medical officers of Victoria Hospital have examined him about his potentiality and report came in positive.

e) It is alleged that, CW.3 being married woman became pregnant during January 2005. Then the accused No.1 with a criminal intention to have sexual intercourse with her and under the guise of spiritual enlightenment has made her to abort. After abortion, during February 2005, the accused, with an intention to have a sexual lust with CW.3 with the assistance of his personal assistant i.e., accused No.5 made CW.3 to come to his room in the night and serve him the food and clean the room. At the instance of accused No.1, accused No.5 brought CW.3 to the room of accused No.1 and there afterwards, accused No.5 by leaving CW.3 in the room of accused No.1 and by closing the door, she went outside. There afterwards, accused No.1 has asked CW.3 to press his legs and called upon

her to lock the door from inside and when CW.3 after locking the door came near accused No.1, he by embarrassing her tightly, kissed to her lips. Due to the act of accused No.1, CW.3 got confused. At that point of time, accused No.1 stated her that, he is the person who has already attained enlightenment and for her enlightenment, he is having such activities and his activities is not a sin. He has made her to believe that, he is Anandeshwara and she is Parvathi and there afterwards, he made her to surrender completely. Then accused No.1 undressed her and kissed all over the parts of her body and made her to touch his pennies and he after removing his saffron lungi and against her wish had sexual intercourse with her. Due to the act of accused No.1, CW.3 got shocked and he subjected her to hypnotize and made her to believe that, she has surrendered herself to her guru. He has also instructed her not to disclose about the act to anybody and if she disclose, it will have a negative effect on her. During February 20 to 23 of 2005 at Erord Hotel Grand Palace and Spa, Salem District, during December 2005 in the house of CW.7 at Salem,

during January 6 to 9 of 2006 at Varanasi Hotel Plaza, during August and December 2006 at Bidadi Ashrama, during January 18 to 25 of 2007 at Alahabad Kumba Mela and during January and March of 2009 at Rajapalyam Ashrama, Tamil Nadu and Namkal Ashrama, during 2005 and 2009 visit to foreign countries, accused No.1 took CW.3 along with him and he had hypnotized her, made her to surrender under the guise of spiritual enlightenment and by making her to completely surrender, had forcible sexual intercourse with her by brain washing her. During that period, he used to call CW.3 to his room and made her to serve and co-operate with him for oral sex and accordingly, he had oral sex with CW.3 against her wish. At Hotel Plaza of Varanasi in room No.208, at Ardha Kumba Mela at Alahabad, in Rajyapalyam Ashrama and during foreign visits, accused No.1 with the assistance of accused No.5 and through CW.11 called CW.3 to his room and then had unnatural sex with her and he has committed sexual intercourse against her wish. During August and December 2006, when CW.3 was there in Ashrama at Bidadi, accused

No.1 has called her to bring alcohol. He has instigated her to drink alcohol and made her to drink and when she was in intoxicated state of mind, he by undressing her had sexual intercourse with her and when she gained consciousness, she was there in his bed and she saw her dresses kept in a corner of the room. On 31.12.2007 and 31.12.2008, accused No.1 worn dress as if a lady and he called CW.3 to his room and made her to have oral sex and thereby he had unnatural sex. During July and August 2007, on the date of Guru Poornima and during December 31 performed Nithyananda Jayanthi. Accused No.1 called CW.3 to his kuteera through accused No.5 and other personal assistants and had unnatural sex and forcible sexual intercourse against her.

f) During February and March 2009, the accused No.1 got executed Non-Disclosure Agreement not only from CW.3, but also from other devotees, to have sex, thantrik sex and nudity with the accused No.1. Without the order of accused No.1, the parties to the agreement should not disclose the terms of agreement to anybody. In order to conceal the illegal activities of

accused No.1, he has got concocted the Non-Disclosure Agreement. He has also got published five books under the title 'Living Enlightenment' and thereby made an attempt to create a feeling in the mind of his devotees to have sexual activities. The accused No.1 under the impression that, CW.1 has participated in videographing all his sexual activities, on 18.02.2010 at 4 p.m., called CW.1 to his vehicle and asked him as to whether he has videographed the activities. CW.1 was warned that, if did so, he will kill him and by slapping on his cheek, he has threatened to do away the life of CW.1. Accused No.1 made CW.119 Vinay Bharadwaj to believe that, to get spiritual enlightenment, one should have physical contact with accused No.1 and accordingly, during April to June 2005 at Bidadi Ashrama and foreign countries, accused No.1 by removing the clothes of CW.119 had oral sex and thereby committed unnatural sex and he has also threatened to do away the life of CW.119 in the event of he disclosing said fact to anybody and hence, chargesheet is filed against accused No.1 for the

offence punishable u/s 417, 376, 377, 506(1), 201, 129(B) of IPC.

g) The accused Nos.2 to 5 have conspired and assisted the accused No.1 in his illegal activities. It is alleged that, after the registration of criminal case against accused No.1, to usurp illegal activities and to avoid the legal action against accused No.1, he along with accused No.2 went to Himachal Pradesh. Therefore, the allegations are made against the accused No.2 for the offence punishable u/s 212 and 120B of IPC.

h) Accused No.3 Nithya Sachidananda @ Shivavallabaneni along with his wife accused No.5 being the volunteer in Dhyana Peetam of accused No.1 by sensing the registration of the case against accused No.1, prior to 8 to 10 days to 03.03.2010, handed over 30 to 35 Non Disclosure Agreement in black coloured American Traveler suitcase to CW.10 Hanumanthu to take the same to his residence at Mysuru. After the registration of the case against accused No.1, CW.10 by retaining the black coloured American Traveller suitcase with him, through CW.11 Kishan Reddy

handed over the Non Disclosure Agreement to accused No.3. The accused No.3 under the impression that, that documents may amount to corroborative evidence to the allegation made against accused No.1 and he has destroyed the same and thereby instigated accused No.1 to commit the offence. He has also participated in the criminal conspiracy. Therefore, the charge-sheet is filed against u/s 201, 120(B) of IPC.

i) Accused No.4 is one of the trustees of the Nithyananda Dhyanapeetam Trust. Though he is aware of the criminal activities of accused No.1, with an intention to instigate accused No.1 so as to commit illegal activities, when CW.3 was there along with accused No.1 at Arcade Grand Palace and when she came out of the room of the accused No.1, he has sarcastically laughed at her and he has encouraged accused No.1 to have illegal activities further before registration of the case, he has called upon the father of the CW.4 to destroy all the evidence available regarding his visit to Bidadi Ashrama. He has threatened to do away the life of CW.119 Vinay

Bharadwaj. Thereby allegations are made against him for the offence punishable u/s 201, 120(B), 506 of IPC.

j) Accused No.5 Smt.Ragini @ Ma Sachidanand is the wife of accused No.3 and she is the resident of Nithyananda Ashrama. She worked as personal assistant to accused No.1 during 2004 to 2007 and she was aware of all the criminal activity of accused No.1 and made the devotees to believe accused No.1 as 'Swamy' and she used to send CW.3 to the room of accused No.1 either at Ashrama or at the tour place and thereby, assisted accused No.1 to sexually harass CW.3 and thereby allegations are made against her for the offence punishable u/s 37 r/w Sec.376, 377, 120(B) of IPC.

k) Accused No.6 Smt.Ma Nithyasadananda @ Jamunarani is one of the trustees of Nithyananda Dhyana Peetam Trust. On 18.10.2004, 19.05.2009, 05.05.2005, she got executed Non Disclosure Agreements from devotees including CW.3 and CW.119 without permitting them to go through the contents of the same and without their consent; thereby made them to agree to become nude for the purpose of

spiritual enlightenment and participate in the sexual activities. In that manner assisted accused No.1 to commit rape on CW.3 and have oral sex with CW.119 and thereby accusation made against her for the offence punishable u/s 120(B), 376, 377 r/w Sec.37 of IPC.

9. The grounds urged in the application filed by the accused Nos.1 and 2 u/s 227 and 228 of Cr.P.C are:

The Investigating Officer has not chosen to produce both oral and documentary evidence which has collected during the course of his investigation. By virtue of the orders of the Hon'ble High Court of Karnataka, now he is compelled to place the materials before the court and if the same is read over to its face value as true, do not make out any offence. Basic essential ingredients that would constitute the commission of offences said to have been committed by the accused and that are mentioned in the final report are found lacking in the evidence collected by the Investigating Officer. In view of the law laid down by the Apex Court and Hon'ble High Court of Karnataka,

the unquestionable, unimpeachable and admitted documents that are produced by the accused, if read, would demonstrably indicate that the story projected by the prosecution will have no legs to stand. The accused are falsely implicated in the case for certain inexplicable reasons that are well within the knowledge of couple of prosecution witnesses. The registration of the crime, its investigation and the submission of final report itself is bad for the reason that, the person who said to have been aggrieved, has not even cited as a prosecution witness. The victim of the sexual assault absolutely has no grievance whatsoever against the accused. In view of the matter it has to be said that, the result of the investigation lacks bonafides and smells of malafide action. The harassment to which the accused are subjected to, for no sin or fault on their part, has got to be nipped in the bud by an order of discharge. Hence, prayed this court to discharge accused persons from the allegations made against them.

10. Objections of the prosecution:

The objections of the prosecution is nothing but reiteration of facts stated supra. The prosecution, however contended that, the application is not maintainable either in law or on facts. The accused have placed reliance on some unauthenticated medical certificate said to be of the victim/CW.3. Since the same is not a record relevant to the case and it cannot be accepted. U/s. 227 and 228 of Cr.P.C, the court has to consider the record of the case and documents produced by the prosecution and hear the prosecution and the accused. A strong suspicion is enough and only prima-facie case is to be examined before framing of charge or passing the order of discharge. On the materials on record, there are sufficient grounds for presuming that, the accused have committed the offence. Therefore, the accused cannot be discharged. At this initial stage, the truth, veracity and effect of the evidence which the prosecution proposes to adduce cannot be meticulously judged. The standard of test and proof is to be applied finally before finding the guilt

of the accused or otherwise. What the court has to consider at this stage is only the sufficiency of the ground for proceeding against the accused and not for the materials which are sufficient or adequate for the conviction. At this stage, it is not permissible to have a meticulous examination of the statements of witnesses. Hence, prayed to reject the application and frame charge against accused Nos.1 to 6 for the offence alleged.

11. Heard the arguments of Sri.C.V.N., Advocate for accused Nos.1 and 2, Sri.R.B.N., Advocate for accused Nos.3 and 5 and Sri.Ashok Haranahalli for accused Nos.4 and 6 and learned Special Public Prosecutor for the State. In addition to that, I have given my anxious consideration to the written synopsis filed on behalf of accused Nos.1 to 6 and citations relied by the prosecution and accused.

12. Before I proceed to examine whether there are grounds for presuming that, the accused have committed an offence triable by this court to frame charge or to discharge the accused persons, it is

necessary to keep in mind the law laid down by the Hon'ble Apex Court with regard to how materials to be looked into either to frame charge or to discharge the accused.

13. In the case of State of Madhya Pradesh vs. S.P.Johari and others reported in 2000 Cri.L.J 944

it was held that, "the court is required to evaluate the material and 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. The court may for this limited purpose shift the evidence as it cannot be expected even at the initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or broad probabilities of the case. At the stage of framing of the charge, the court has to prima-facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate the evidence and arrive at the conclusion that, the materials provided are sufficient or not for conviction of the

accused. If the court is satisfied that, a prima-facie is made out for proceeding further, then charge has to be framed.”

14. In AIR 2005 SUPREME COURT 359 in a case between State of Orissa vs. Debendranath Padhi, the Hon’ble Apex Court of this Nation has held that, “While ordinarily the court has to proceed on the basis of material produced with the charge-sheet for dealing with the issue of charge, but if the court is satisfied that, there is material of sterling quality which has been withheld by the investigator/prosecutor, the court is not debarred from summoning or relying upon the same even if such document is not a part of charge-sheet.”

15. Thus, keeping in view of above parameters of law, I have examined police report and the documents sent u/s 173 of Cr.P.C.

16. Now the points that are arisen for the due consideration of this court are:

- 1)** Whether there are sufficient grounds for presuming that, accused have committed the offence alleged in the charge-sheet which are exclusively triable by this court?
- 2)** Whether the accused Nos.1 to 6 have proved that, there are no sufficient grounds to proceed further against them in the line of framing charge and hence, they are entitled for discharge?
- 3)** What Order?

17. My answers to the above points are as under:

Point No.1: In the Affirmative,

Point No.2: In the Negative,

Point No.3: As per final order for the following:

REASONS

18. POINT Nos.1 AND 2: Both the points are taken up together for discussion for the sake of convenience as they are inter-linked with each other.

19. On facts: The perusal of the investigation records would reveal that, one Lenin Kurupan (CW.1) was the driver and his services is being made use of by the accused No.1. He after videographing the activities of accused No.1, lodged a complaint before the Central Crime Bureau, Chennai, Tamil Nadu and accordingly, a criminal case is registered in Cr.No.112/2010 for the offence punishable u/s 295(A), 376, 377, 420, 506(1) of IPC.

20. Similarly, one Vishwanath has lodged a complaint to the police at Chennai in Cr.No.142/2010. On the basis of jurisdiction, both the cases are transferred to Bidadi police station. As per the directions of D.G and I.G of Karnataka, the cases are transferred to CID, Bengaluru for investigation.

21. After the investigation, the Investigating Officer has filed the charge-sheet against the accused for the offence punishable u/s 376, 377, 420, 114, 201, 417, 415, 506(1) and 120B r/w Sec.37 of IPC.

22. It is the contention of the accused persons that, the Investigating Officer though collected the documents during the course of his investigation, has not produced the same along with charge-sheet. It is also contended that, the Investigating Officer/custodian of the records is now compelled to place the records collected by him during the course of investigation as per the directions of Hon'ble High Court of Karnataka, Bengaluru. It is true that, as per the directions of Hon'ble High Court of Karnataka, the Investigating Officer has produced the alleged medical report of CW.3 and e-mail correspondence between CW.3 and CW.119 of undisputed point of time. In fact, the learned Spl.PP has filed objection to the list of documents produced by the learned counsel for the accused Nos.1 and 2.

23. The Hon'ble Supreme Court of India in CrI.A.No.2114/2017 on considering the ratio of the decision reported in **2005 (1) SCC 568 in a case between State of Orissa vs. Debendranath Padhi**, has held that, "While ordinarily the court has to proceed on the basis of material produced with the charge-sheet for dealing with the issue of charge, but if the court is satisfied that, there is material of sterling quality which has been withheld by the investigator/prosecutor, the court is not debarred from summoning or relying upon the same even if such document is not a part of charge-sheet." The ratio laid down in the above decision is CrI.A.No.2114/2017 is pertaining to the present case only. Therefore, this court is of the opinion that, the documents produced by the learned counsel for the defense can be considered only at the time of trial and not at the time of framing charge. In fact, the Hon'ble Apex Court in the decision referred to above at paragraph No.11 has held that, "The trial court may now proceed to deal with the issue of framing of charge in the light of the observation made therein." Therefore, it is the duty of

the court to consider as to whether there are sufficient materials to frame the charge against the accused or not.

24. It is to be borne in mind that, the complainant is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid down in the complaint, merely on the ground that, a few ingredients have not been stated in detail, the accused shall not be discharged or it cannot be treated that, there is lack of ingredients of the offence in the complaint.

25. The learned counsel for the accused Nos.1 and 2 has argued that, if the statement of CW.3/prosecutrix is taken into consideration, it can be said that, the story projected by the prosecution will have no legs to stand and that the accused are falsely implicated in the case for certain inexplicable reasons that are well within the knowledge of couple of prosecution witnesses.

26. It is also contended that, the perusal of the statement so produced by the Investigating Officer, which belongs to Ranjitha do not indicate that, she has been subjected to an act of sexual assault. As per the complaint of Lenin, which has been lodged by him at the earliest point of time, it is the 1st accused who had sexual contact with Ranjitha. However, statement of Ranjitha would disclose that, she has not been subjected to an act of sexual assault.

27. From the investigation materials, it is clear that, the Investigating Officer has given a publication and consequently, CW.3 had given a statement before the Investigating Officer about the alleged act of sexual exploitation by the 1st accused. The learned counsel for the accused Nos.1 and 2 placing reliance on the statement of CW.3 argued that, if the statement of CW.3 is read as it is, the allegation made do fall within the purview of consent sex. However, the fact that, whether there is consent sex between CW.3 and the 1st accused or not is cannot be appreciated at this stage. It is relevant to note here itself that, the accused No.1

has not admitted that, there is sexual intercourse by consent. Therefore, this court has not resorted for the examination of said aspect of the matter at this stage.

28. The learned counsel for the accused Nos.1 and 2 has also argued that, there is inordinate delay in recording the statement of CW.3. It is also contended that, if really the 1st accused had sexually abused CW.3, she could have lodged the complaint at an earliest point of time. However, it is relevant to note that, if delay is properly explained by the prosecution to the satisfaction of the court, then the question of discharging the accused on the ground of delay in recording the statement of the victim would not arise.

29. The learned counsel for the accused Nos.1 and 2 by placing reliance on the statement of CW.3 and CW.119 has argued that, the statement so recorded by the Investigating Officer do not indicate any offence as averred in the charge-sheet. It is settled proposition of law that, in an offence punishable u/s 376 of IPC, the sole testimony of the prosecutrix is itself sufficient to

convict the accused if the same inspire confidence in the mind of the court.

30. The statement of CW.3 would clearly indicate that, she was subjected herself to the lust of 1st accused under the promise of spiritual enlightenment. It is very relevant to note that, during the course of investigation, the Investigating Officer has seized certain Non-Disclosure Agreements. The reading of this Non-Disclosure Agreement would at this stage prima-facie disclose that, certain illegal activities are going in the Ashrama. If really the Ashrama is made for spiritual enlightenment, the question of devotees or inmates entering into the Non-Disclosure Agreement, which has been included in the charge-sheet does not arise at all. It is for the accused Nos.1 and 6 to explain with what intention that Non-Disclosure Agreement is entered into. From the reading of the Non-Disclosure Agreement available on file, it is clear that, the contents therein is in tune with the statement of CW.3 and CW.119. Therefore, at any stretch of imagination,

at this stage it cannot be said that, baseless allegation is made against the 1st accused.

31. The learned counsel for accused Nos.1 and 2 has placed reliance on Sec.375 of IPC and argued that, concept of fraud pleaded by CW.3 do not fall within the purview of Sec.375 of IPC. No doubt, in the charge-sheet, it is contended by the prosecution that, CW.3 has subjected herself to the sexual lust of accused No.1 as he has (accused No.1) played fraud. However, it is not the duty of the court to consider only one part of the statement of CW.3, on the other hand, it is the duty of the court to consider the statement of CW.3 and CW.119 in its entirety. The court is not expected to read each and every sentence in its isolation. Therefore, at this stage, it cannot be said that, the allegation made against accused No.1 do not fall within the purview of Sec.375 of IPC.

32. The perusal of the materials placed by the Investigating Officer would disclose that, CW.3 along with her parents joined Ashrama of accused No.1 in the year 2005, stayed till 2009. No doubt, it is true

that, from 2005 to 2009, CW.3 has not complained anything about the sexual assault on her person. However, it is made clear that, in the year 2010, she has given statement before the police. The materials available on record would disclose that, CW.3 as on the date of the offence was aged 32 years and she is a Post Graduate degree holder in Engineering and who is married and she is a enlightened member of the public, she having traveled round the globe, being a citizen of USA. Thus it is clear that, CW.3 is a well educated lady and came from a reputed family. Under such circumstances, the question of she complaining falsely against the 1st accused about the sexual assault would not arise. It cannot be said that with the vengeance, CW.3 has made a statement before the Investigating Officer in the year 2010. If really she had that intention, she could have lodged the complaint during 2005 to 2009. Therefore, at any stretch of imagination at this stage it cannot be said that, CW.3 has given a false statement against accused No.1 so as to implicate him in the instant crime. Thus at this stage, prima-facie one thing can be gathered that, in view of CW.3

and CW.119 being parties to the Non-Disclosure Agreement, which is in the possession of accused No.1, they have not disclosed the alleged sexual assault at the earliest point of time.

33. It is contended by the learned counsel for the accused that, as per the statement of CW.3, she, to attain spiritual bliss has joined the Ashrama of accused No.1. It is contended by the learned counsel for the accused that, for the purpose of attaining spiritual bliss, one will have certain self-imposed discipline and restrictions in addition to certain do's and don'ts. But she has not observed the same. From the said contention, it can be said that, the Ashrama of 1st accused is established for spiritual enlightenment. If that being the case, the question of accused No.6 entering into Non-Disclosure Agreement with the inmates and devotees to have sex and tantric sex etc., does not arise at all. From the documents placed on record, at this stage it is prima-facie clear that, accused No.6 has signed Non-Disclosure Agreements on behalf of Ashrama. In the addendum to the NDA, it

is shown that, 'the volunteer understands that the program may involve the learning and practice of ancient tantric secretes associated with male and female ecstasy, including the use of sexual energy Foundation.' Thus the meaningful reading of Non-Disclosure Agreement would prima-facie disclose that, the same is entered into with the inmates of Ashrama to have sexual energy with male and female ecstasy. The contents of Non-Disclosure Agreement would clearly corroborate with the statement of CW.3 and CW.119.

34. It is stated by CW.3 and CW.119 that, Non-Disclosure Agreements has been used against victim for frightening them with dire consequences. The very recitals in the Non-Disclosure Agreement would prima-facie reveal the fact that, the accused persons are involved in criminal conspiracy and involved in the commission of the offence. The books seized by the Investigating Officer which has been published by the 1st accused is produced in the instant case. The perusal of the books would prima-facie indicate that,

the accused No.1 had an intention to captivate the victims by hypnotizing them. That fact is clearly and elaborately stated by CW.3 in her 161 Cr.P.C statement. From the reading of the statement of CW.3 and CW.119, at this stage, there are sufficient materials to accept the theory of the Investigating Officer so as to put the theory into trial.

35. The accused No.1 has taken a plea that, he is incapable of performing the sexual act. However, the opinion given by the doctors at Victoria Hospital, Bengaluru would disclose that, accused No.1 is capable of performing sexual act. It is argued by the learned counsel for the accused Nos.1 and 2 that, the report is given by radiologist not by the neurologist. What value can be attached to the report so available in the file issued by Victoria Hospital is to be examined at an appropriate point of time. At this stage, this court is not required to examine the genuineness or otherwise of the report. The report of the doctors at Victoria Hospital, Bengaluru prima-facie disclose that, accused is capable of performing sexual act. Thus at

this stage, it cannot be said that, accused No.1 is not capable of performing sexual act.

36. It is settled proposition of law that, a strong suspicion is enough and only prima-facie case is to be examined before framing of charge or passing of order to discharge. The materials available on record would disclose that, at this stage, there are sufficient grounds for presuming that, accused No.1 has committed the sexual assault on the person of CW.3 and unnatural oral sex with CW.3 and CW.119.

37. At this initial stage, the truth, veracity and effect of the evidence which the prosecution proposes to adduce are not meticulously judged and the standard of test, proof and judgment which is to be applied finally against the accused for finding the guilt of the accused or otherwise cannot be applied at the time of framing charge. At this stage, the court is only to find out whether there are sufficient grounds to proceed further against accused or not? Hence, this court has not resorted for the meticulous examination of statement of witnesses.

38. It is also born out from the material evidence placed on record that, after registration of the case, accused Nos.1 and 2 remained absconded and they have been arrested at Himachal Pradesh. Thus from the meaningful reading of the materials placed on record, at this stage, this court is of the opinion that, there are sufficient and reasonable grounds to proceed further against accused Nos.1 and 2.

39. It is an admitted fact that, accused Nos.3 and 5 are husband and wife and they were the devotees of accused No.1. It is alleged in the charge-sheet that, 1st accused on smelling about the registration of the case prior to 8-10 days to 03.03.2010 has kept 30-35 Non-Disclosure Agreements in a black coloured American Traveler suitcase and handed over the same to CW.10 Hanumanthu who is the resident of Mysuru. After the registration of the case, CW.10 has retained the black coloured American Traveler suitcase with him and handed over the Non-Disclosure Agreements to CW.11 Kishan Reddy and there afterwards, he has handed over the same to accused No.3 Shiva Vallabhaneni.

There afterwards, the accused No.3 has destroyed certain Non-Disclosure Agreements in order to destroy the evidence.

40. So far as accused No.5 Smt.Ragini @ Ma Sachidananda is concerned, it is alleged that, she being the wife of accused No.3 is the resident of Nithyananda Ashrama. She served as Personal Secretary and Assistant to accused No.1 from 2004 to 2007 and she was aware of all the illegal activities of accused No.1. She used to make the devotees to believe that, accused No.1 is a Swamy and she used to send CW.3 to the room of accused No.1 wherever he stays and so as to help him to have sexual assault on CW.3 and therefore, she has participated in the conspiracy. This type of allegations require trial.

41. It is contended by the accused No.3 that, Shiva Vallabhaneni is the co-founder and Chief Operating Officer at Diabetes Consumer Products Private Limited. He has started company for manufacturing proprietary foods for diabetics. While considering the application for the discharge it is the duty of the court to examine

the materials placed by the Investigating Officer so as to frame charge, and the court need not examine the qualification of accused or about his business. Hence, at this stage, this court has not resorted for the examination of genuineness or otherwise of the allegations.

42. The learned counsel for accused Nos.3 and 5 has argued on the merits of the case. However, reading of the statement of CW.9 C.R.Hanumanthu, CW.10 B.Kishan Reddy and CW.11 R.Balakrishna would demonstrably indicate that, accused No.3 has participated in destroying the Non-Disclosure Agreements. No doubt, Non-Disclosure Agreements is not the material involved in the commission of the alleged sexual act of accused No.1. However, these documents would prima-facie indicate that, some illegal activities are going on in the Ashrama and the devotees and inmates are forced to sign the Non-Disclosure Agreements without reading it and thereby prevented them from disclosing the alleged illegal act of accused No.1.

43. The statement of CW.119 would demonstrate that, accused No.3 at the instance of accused No.1 threatened to do away his life. Thus there are sufficient materials to proceed and against accused No.3 for the offence punishable u/s 201, 120B, 506 of IPC.

44. So far as accused No.5 Smt.Ragini @ Ma Nithya Sachidananda is concerned, according to her, she is a Master Degree Holder in Information Science from USA and she worked in the IT field in the Bank of America, where she has managed large IT projects as a Project Manager. It is also contended that, accused No.3 and 5 are from respectable and highly educated family in Adhra Pradesh. The question of considering the educational qualification or the family background of accused No.5 does not arise at all. The Non-Disclosure Agreements available in file would prima-facie indicate that, illegal activity was going on in the Ashram. The fact that, accused Nos.3 and 5 are the devotees of Ashrama of 1st accused is not in dispute. The learned counsel for the accused Nos.3 and 5 has

placed reliance on the statement of CW.3. By placing reliance on the statement of CW.3, it is argued that, no allegation is made against the accused No.5 for the offence punishable u/s 120B or 114 of IPC. However, the meaningful reading of the materials placed by the prosecution at this stage, prima-facie shows that, this accused has assisted the 1st accused to have sexual intercourse with CW.3 by making her to believe that accused No.1 is a Swamy. Therefore, at this stage, to disbelieve or discard the statement of CW.3, absolutely there are no reasons before the court. Thus, this court is of the opinion that, there are sufficient materials to presume that, the accused No.5 has committed the offence punishable u/s 37 r/w Sec.376, 377 and 120B of IPC. Therefore, there are no reasons to discharge.

45. The offence alleged against the accused No.4 is punishable u/s 201 and 120B of IPC. It is contended by the prosecution that, accused No.4 is one of the trustees of Nithyananda Dhyana Peetam and though he is aware of the illegal and criminal activities of 1st accused, with an intention to instigate him to do his

illegal activities, when CW.3 and accused No.1 was in Ecord Grand Plaza, when CW.3 had came out of the room of accused No.1, he has sarcastically smiled and thereby instigated accused No.1 to commit sexual assault on CW.3. In fact, CW.3 in an unequivocal terms in her 161 Cr.P.C statement has stated that, accused No.4 is also participated in the criminal conspiracy and has instigated accused No.1 to have sexual assault on her.

46. The fact that, accused No.4 is a trustee of Nithyananda Dhyana Peetam is not in dispute. It is also stated by CW.4 in his statement that, during March 2010, the 4th accused has contacted him through telephone and instructed him to erase all the records available with him showing his connection with the Ashram and further also instructed to pass on the same instructions to CW.3 also. According to his instructions, CW.4 has deleted all records and e-mails connecting them with the Ashram.

47. No doubt, the learned counsel for the accused No.4 has placed reliance u/s 120A of IPC and argued that, none of the witnesses have alleged against accused No.4 that, he is a party of any criminal conspiracy. In the absence of said allegation or any material to suggest, the charge for the said offence is unsustainable. But the statement of CW.3 and CW.4 at this stage, inspires confidence in the mind of the court. Hence, same cannot be discarded at this stage. The act of criminal conspiracy can be gathered from the statement of CW.3 and CW.4. Therefore, at any stretch of imagination, it cannot be said that, there are no materials to proceed against accused No.4 for the offence punishable u/s 201 and 120B of IPC.

48. Similarly, it is contended by the prosecution that, after the registration of the case, accused No.4 has threatened to do away the life of CW.119. That fact finds place in the statement of CW.119. At this stage to disbelieve the statement of CW.119 which has been recorded by the Investigating Officer through Skype, there are no reasons before the court. Under the above

circumstances, this court is of the opinion that, there are sufficient materials in the lines of the accusation made against accused No.4 for the offence punishable u/s 201, 120B and 506 of IPC.

49. So far as accused No.6 is concerned, it is alleged in the charge-sheet that, she is also one of the trustees of Nithyananda Dhyana Peetam and got signed the Non-Disclosure Agreements from CW.3 and CW.119 and other devotees without giving any opportunity to them to read or question the contents of same. By getting these Non-Disclosure Agreements signed by CW.3 and CW.119, accused No.6 co-operated with the accused No.1 in committing sexual assault on CW.3 and oral sex with CW.119. The offence alleged against the accused No.6 is punishable u/s 120B, 376, 377 r/w Sec.37 of IPC.

50. No doubt, it is true that, CW.3 or CW.119 have not stated that, the 1st accused has committed the alleged act of sex with them for the reason of they entering into such Non-Disclosure Agreements. It is true that, mere execution of Non-Disclosure

Agreements will not amount to commission of offence either u/s 120B or 37 of IPC. But CW.3 has given her statement before the Investigating Officer regarding Non-Disclosure Agreements. Therefore, at this stage, it can be gathered that, since CW.3 is one of the signatories of Non-Disclosure Agreements, she has not disclosed alleged act of sexual assault on her person by accused No.1 when she stayed with him from 2005 to 2010 at Bidadi Ashrama.

51. The 6th accused has not denied the fact that, she has signed Non-Disclosure Agreements on behalf of the Ashrama. If really the Ashrama is established with an intention to have spiritual bliss or spiritual enlightenment, the question of accused No.6 entering into Non-Disclosure Agreements on behalf of Ashrama does not arise at all. Therefore, at this stage, there is no substance in the contention of accused No.6 that, she has not participated in the criminal conspiracy and co-operated with the accused No.1 to have sexual assault on CW.3 and CW.119. Therefore, on considering the factual matrix of the case in its

entirety, this court is of the opinion that, there are sufficient materials to proceed further against accused No.4 and 6.

52. The statement of CW.3 is recorded by the Investigating Officer on 17.08.2010. While giving her statement, CW.3 being a highly educated lady has stated that, it took five years for her to realize that, accused No.1 had cheated and defrauded her and countless others, many of whom are still being cheated, by exploiting her noble urge to attain spiritual enlightenment. It is also her statement that, she has been brought up in the best traditions of a Brahmin family and well educated and married to a person of her and family's choice, was mentally, psychologically taken over and dominated for over five years by accused No.1. Similarly, this portion of statement of CW.3 at this stage inspires confidence in the mind of the court. Therefore, it is highly improbable to accept the contention of accused Nos.1 and 2 that, the statement of CW.3 is cannot be accepted at this stage. It is stated by CW.3 that, through spiritual discourses

of accused No.1 on TV, she was highly impressed by his talks as it directly touch upon the very issues which she was battling. She has also stated that, she was mentally dominated upon by the 1st accused and continuously brainwashed into believing that, she was not doing anything wrong and that, she was progressing spiritually as accused No.1's divine consort, that she has no reason to feel guilty and that she should be grateful for accused No.1 for showering his compassion on her and hence, she surrendered her will to think and act on her own to him and began doing what he willed. The very statement of CW.3 would disclose that, she is a highly educated lady. Similarly, on 01.11.2010, she has given her further statement. The sum and substance of the statement of CW.3 is that, the accused No.1 at the instance of accused No.5 has exploited CW.3 sexually according to his wish and against her wish. Therefore, at this stage, it cannot be said that, the statement of CW.3 do not fall within the purview of Sec.375 of IPC as contended by the learned counsel for accused No.1.

53. The learned counsel for the accused Nos.1 and 2 has placed reliance on a decision reported in **AIR 2009 SC 1013 in a case between Rukmini Narvekar vs. Vijaya Satardekar and others** and argued that, it cannot be said as an absolute proposition that under no circumstances can the court look into the material produced by the defence at the time of framing charge though this should be done in very rare cases i.e., where the defence produces some material which convincingly demonstrate that the whole prosecution case is totally absurd or totally concocted. Similarly, he has placed reliance on a decision reported in CrI.R.P.No.200063/2014 dated 27.08.2015 of the Hon'ble High Court of Karnataka, Kalaburgi Bench and argued that, while framing charge or considering the application for discharge, the documents produced by the accused should also be looked into. In the said decision, the Hon'ble High Court of Karnataka has held that, if the accused has produced any material before the Investigating Officer or if the Investigating Officer himself has collected some materials, though they are no part and parcel of the charge-sheet and not relied

upon by the prosecution or proposed to produce that materials at the time of trial, but, if those documentary evidence or statement of the witnesses collected by the Investigating Officer, are relevant for the purpose of considering whether there is any prima-facie material to proceed against the accused for framing charge. It is also held that, it should not be misunderstood that, whatever documents that are produced by the accused before the court which is neither produced before the Investigating Officer during the investigation nor collected by the Investigating Officer shall also be considered by the court. But it is plain and clear that, those materials collected by the Investigating Officer during the course of investigation though may not as a part and parcel of the charge-sheet, but separately produced before the court, those documents, statement of witnesses and the materials shall also be looked into by the court for the purpose of ascertaining prima-facie case against the accused.

54. However, the Spl.PP has placed reliance on a decision reported in **AIR 2005 SC 359 in a case between State of Orissa vs. Debendranath Padhi** and argued that, at the stage of framing charge, the trial court is required to consider whether there are sufficient grounds to proceed against the accused. It is also argued that, at the stage of framing charge, the defense of the accused cannot be put forth. The ratio of the above dictum is squarely applicable to this case.

55. Similarly, learned SPP has placed reliance on a decision reported in **AIR 2007 SC 2149 in a case between Soma Chakravarthy vs. State through CBI** and argued that, charge may although be directed to be framed when there exists a strong suspicion, but, it is also trite that, the court must come to a prima-facie finding that there exists some material. Hence, contended by the prosecution that, to frame charge, prima-facie materials is sufficient and court need not consider the defense of the accused or the materials placed by the accused. In Rukmini Narvekar's case, it is observed by the Apex Court that, it is true that,

ordinarily defense material cannot be looked into by the court while framing of charge in view of D.N.Padhi's case, there may be some very rare and exceptional cases where some defense material when shown to the trial court would convincingly demonstrate that, the prosecution version is totally absurd or preposterous, and in such very rare cases the defense materials can be looked into by the court at the time of framing of charge or taking cognizance.

56. The Hon'ble Supreme Court of India in CrI.Appeal No.2114/2017 (pertaining to present case) has by placing reliance on a decision reported in **State of Orissa vs. Debendranath Padhi reported in 2005 (1) SCC 568** has held that the defense could not be considered at the stage of framing of charge so as to avoid a mini trial. It is held that, ordinarily the court has to proceed on the basis of material produced with the charge-sheet for dealing with the issue of charge, but if the court is satisfied that, there is material of sterling quality which has been withheld by the investigator/prosecutor, the court is not debarred from

summoning or relying upon the same even if such document is not a part of charge-sheet. It does not mean that, the defense has a right to invoke Sec.91 Cr.P.C. de hors the satisfaction of the court at the stage of charge. The ratio in the above decision is laid down relating to the present case. Therefore, it is incumbent upon this court to proceed further in view of the above directions.

57. It is settled proposition of law that, at the stage of framing charges under the provisions of u/s 227 and 228 of Cr.P.C, the court is required to evaluate the materials and documents on record with a view to find out if the facts emerging there from taken at their face value disclose existence of all the ingredients constituting the alleged offence. The court may, for limited purpose sift the evidence as it cannot be expected even at the initial stage to accept all that the prosecution states as the gospel truth even if it is opposed to commonsense or the broad probabilities of the case. Therefore, at the stage of framing of the charge, the court has to consider the materials with a

view to find out if there is ground for presuming that, the accused has committed the offence or that there is no sufficient ground for proceed against him and not for the purpose of arriving at the conclusion that, it is not likely to lead a conviction.

58. The learned counsel for accused Nos.1 and 2 has placed reliance on the alleged medical record of CW.3. The alleged medical record of CW.3 is a confidential record. There is no explanation as to who has sent the same to the Investigating Officer. The medical report is not produced by the person authorized to produce. The genuineness of the document is seriously disputed by the prosecution. When a document is disputed, examination of author plays a very vital role. By placing reliance on the medical report, it is argued by Sri.CVN, advocate for accused Nos.1 and 2 that CW.3 is suffering from highly contagious disease, she has disclosed before the medical officer that she is leading monogamy life and as per the statement, she is a lady of loose-character. It is also submitted that as per the medical report, accused No.1 is not suffering from any

sexually transmitted disease and he is incapable of performing an act of sexual intercourse. However, to accept that submissions, the author of the medical record has not been examined. The genuineness of the medical report is seriously disputed by the prosecution. It has not been produced by the person authorized to produce. Therefore, at this stage, the alleged medical report cannot be accepted as conclusive proof unless and until the author of the same steps into witness box and subject himself to the test of cross-examination. Without examination of author of the medical record, same cannot be considered as conclusive evidence and material of sterling quality. Accordingly, this court has not accepted the disputed medical report as conclusive proof at this stage.

59. The learned counsel for the accused No.1 has placed reliance on the e-mail correspondence between CW.3 and CW.119 on 03.07.2009. There is a reference about the e-mail correspondence between CW.3 and CW.119 in the statement of CW.3 recorded by the Investigating Officer during the course of his

investigation. In the e-mail correspondence, CW.3 has stated that, in her personal experiences, nothing is happened with her. It is true that in her e-mail correspondence with CW.119, CW.3 has not stated anything about the sexual assault on her person by accused No.1. From the materials placed on record, it is clear that, the incident has unearthed in the month of March 2010 on the date of telecast of the episode. The Non-Disclosure Agreements seized by the Investigating Officer would disclose that the inmates of Ashrama including CW.3 and CW.119 are signatories to the same. Therefore, at this stage, it can be inferred that, in view of Non-Disclosure Agreement, CW.3 has not disclosed the alleged sexual act of accused No.1 on her person at the time of e-mail chatting with CW.119. However, it is for CW.3 to explain the same at trial. Therefore, based upon the extract of e-mail correspondence, at this stage, it cannot be said that CW.3 is not subjected to sexual assault in the hands of accused No.1. Thus, on appreciation of the facts of the case in the light of the decisions referred to above, this court is of the opinion that, the documents which

relied by the accused No.1 is at this stage is not capable of proving the fact that, the case of the prosecution is totally absurd or concocted.

60. The learned counsel for the accused Nos.1 and 2 has argued that, if the statement of CW.3 is looked into, the same do fall within the scope of consensual sex. It is settled proposition of law that, while considering the application for discharge or considering the materials of the prosecution at the time of framing charge, the court has to consider the material with a view to find out if there is ground for presuming that, the accused has committed the offence or that there is no sufficient ground for proceeding against him. Hence, question of accepting the submission of the learned counsel for accused No.1 is cannot be accepted.

61. The learned counsel for the accused has placed reliance on a decision reported in **AIR 2003 SC 1639 in a case between Uday vs. State of Karnataka** and argued that, if statement of CW.3 is taken into consideration, the same do fall within the meaning of

consensual sex. Similarly, he has placed reliance on a decision reported in **AIR 2005 SC 2132** and argued that, as per the evidence of the prosecutrix, the consent was obtained by deceitful means and the ratio of the above decision is applicable to the present case and the accused is entitled for discharge. It is very relevant to note here itself that, in both the cases, the observation made by the Apex Court after full dressed trial. In the instant case, the applications are filed for the purpose of discharge and the matter is posted for framing of charge. Thus, this court is of the humble view that the ratio laid down in the above decisions is cannot be made applicable to the present case at this stage.

62. Similarly, the learned counsel for the accused has placed reliance on the decision reported in **2014(1) KLJ 164 in a case between Sanganna vs. State by Wadi police station** and argued that, when the statement of CW.3 do indicate that, she was subjected herself to sexual act with her consent and therefore, the accused are entitled for discharge. In that case

also, the Hon'ble High Court of Karnataka has set aside the judgment of conviction which has been rendered after full dressed trial. In the instant case, trial yet to begin. Therefore, question of considering the merits of the case does not arise. Hence, this court is of the view that, the ratio of the above decision is not applicable to the present case.

63. The learned counsel for the accused has placed reliance on a decision reported in **AIR 2005 SC 203 in a case between Deleep Singh @ Dileep Kumar vs. State of Bihar** and argued that, when Sec.375 of IPC is not attracted, accused is entitle for discharge. But the prosecution has argued that, consent given under fear of injury and under a misconception of fact is not a consent at all. The prosecution has placed reliance on Sec.90 of IPC and contended that, the consent is obtained by accused No.1 by a deceitful means and therefore, the ratio of the decision referred to above is not applicable. The careful scrutiny of the statement of CW.3 and CW.119 at this stage, prima-facie disclose that, they have been subjected to sexual assault by

accused No.1. Their statement also disclose that, other accused have indulged in criminal conspiracy. Thus, this court is of the opinion that, the decision referred to above is not made applicable to the present case.

64. The prosecution has placed reliance on the decision reported in **ILR 2008 KAR 2876 in a case between K.Shivarama Shetty vs. the Delhi Police Establishment/CBI/ACB** and argued that, when there are sufficient materials to the satisfaction of the court which are sufficient to frame the charge, the accused are not entitled for discharge. Similarly, by placing reliance on a decision reported in **2008 (14) SCC 504 in a case between Palwinder Singh vs. Balwinder Singh and others** it is argued that, while exercising power u/s 227 of Cr.P.C, the power of Sessions Judge is very limited and marshalling and appreciation of evidence is not in the domain of the court at that time and at the time of framing charge or taking cognizance, the accused has no right to produce any material. No doubt, in the instant case the Investigating Officer has produced the alleged medical report of CW.3 and the

e-mail correspondence between CW.3 and CW.119. But at this stage, this court is not expected to examine genuineness or otherwise of the alleged medical report and e-mail correspondence between CW.3 and CW.119. In view of the latest decision of the Apex Court in Crl.A.No.2114/2017, this court is of the opinion that, the documents which the accused relied need not be considered at this stage so as to avoid mini trial.

65. The prosecution has also placed reliance on the decision reported in 2010(2) SCC 398 in a case between Vijayan vs. State of Kerala and another, 2012(9) SCC 460 in a case between Amit Kapoor vs. Ramesh Chandar and another, AIR 2014 SC 3502 in a case between Dinesh Tiwari vs. State of UP and 2014 Crl.L.J 1444 in a case between State of Tamil Nadu by Vigilance Police vs. N.Suresh Rajan and others. By placing reliance on the above decisions, it is argued that, at the time of framing charge or considering the application for discharge, the court is not expected to evaluate the materials placed before it. It is the duty of the court to consider as to whether

there are sufficient materials to proceed further against the accused or not? The ratio of the above decisions is applicable to the present case and accordingly, this court has not resorted for the examination of the merits of the case.

66. Per contra, the learned counsel for the accused Nos.1 and 2 has placed reliance on the decisions reported in **AIR 1972 SC 545 in a case between Century's Spinning & Manufacturing Co. Ltd., vs. State of Maharashtra, AIR 1977 SC 1489 in a case between State of Karnataka vs. L.Muniswamy and others, AIR 1979 SC 366 in a case between Union of India vs. Prafulla Kumar Samal and another, AIR 2003 SC 2538 in a case between state of Madhya Pradesh vs. Mohanlal Soni, AIR 2009 SCW 5514 and decision of the Hon'ble Supreme Court of India in a case between Sajjan Kumar vs. CBI** and argued that, while considering the question of framing the charge u/s 227 of Cr.P.C, the trial court has to evaluate the evidence for a limited purpose. It is the settled proposition of law that, the evaluation of evidence and

coming to the conclusion that, whether there is prima-facie case or not would depend upon facts and circumstances of each case. Keeping in mind the ratio of the above decisions, this court has carefully examined the materials placed on record by the prosecution and evidence collected by the Investigating Officer during the course of the investigation. Thus on careful appreciation of materials placed, this court is of the opinion that, there are prima-facie materials to proceed further against accused Nos.1 and 2 in the line of framing charge.

67. The learned counsel for accused Nos.3 and 5 has argued that, if the materials placed on record is carefully scanned, no offence is made out against them for the offence punishable u/s 201, 114 and 120B of IPC. Either CW.3 or complainant Lenin have not made any reference even remotely against accused No.3 Shivavallabhaneni. The charge as per Sec.201, 114 and 120B of IPC is not supported by any material placed in the form of charge-sheet. Based upon that submission, it is argued that, for want of sufficient

ground to put accused No.3 on trial, he is entitled for discharge in respect of the offence punishable u/s 114 of IPC.

68. It is also contended that, as regard to Sec.201 of IPC as the same relates to causing disappearance of evidence of offence or giving false information to screen the offender. So far as the offence punishable u/s 201 of IPC, the prosecution has placed reliance on the statement of CW.9 C.R.Hanumantha, CW.10 B.Kishan Reddy and CW.11 R.Balakrishna. The statement of these witnesses would disclose the factum of handing over Non Disclosure Agreements to accused No.3. No doubt it is true that, the Non Disclosure Agreement is not directly connected to the offence alleged against the accused No.1. However, from the reading of the Non Disclosure Agreement, it can be gathered that, some illegal activities are going on in the Ashrama of accused No.1. If really the Ashrama of accused No.1 is established for enlarging spiritual enlightenment, the question of inmates of the Ashrama entering into such an agreement does not arise. Therefore, at this stage,

this court is of the prima-facie opinion that, so far as allegations made against accused No.3 is concerned, there are sufficient materials to proceed against him for the offence punishable u/s 201 and 120B of IPC.

69. So far as accused No.5 Smt.Ragini wife of Shiva Vallabhaneni is concerned, it is argued that, she is coming from well respected and highly educated family in Andhra Pradesh. The statement of CW.3 recorded at the earliest point of time would disclose that, accused No.5 has made the devotees to believe that, accused No.1 is Swamy and she has criminally conspired with accused No.1 so as to fulfill the lust of accused No.1 to have sexual intercourse with CW.3. No doubt, it is true that, the statement of CW.3 cannot be accepted as gospel truth. However, it is the duty of the court to consider the statement of CW.3 in its entirety.

70. The learned counsel for accused Nos.3 and 5 has placed reliance on a decision reported in **2014 (14) SCC 401 in a case between L.Krishna Reddy vs. State by Station House Officer and others** and

argued that, when evidence justifying prosecution against the accused is not available and when the prosecution would be an exercising futility, the accused is entitled for discharge. It is also argued that, a duty is cast upon the court when the case is present by the prosecution with a request to frame charge to ascertain whether prima-facie case has been established which would justify the merit prosecution of a person. But in the instant case, the statement of CW.3 and CW.119 would prima-facie disclose the act of criminal conspiracy and subjecting them to the sexual lust of the accused No.1 and instigation of other accused. Hence, this court is of the humble view that, the ratio of the above decision is not applicable to the present case.

71. Similarly, the learned counsel for the accused Nos.3 and 5 has placed a reliance on a decision reported in **2013 SCC 476 in a case between Sheoraj Singh Ahlawat and others vs. State of UP** and another and argued that, while framing charges, the court is required to evaluate the materials and

documents on record to decide whether facts emerging therefrom taken at their face value would disclose existence of ingredients constituting the alleged offence. However, in the said decision it is held that, while framing charge, the court is not required to go deep into the probative value of materials on record. It needs to evaluate whether there is a ground for presuming that, the accused has committed the offence. In the said decision, it is further held that, if two views are possible and materials indicate mere suspicion, not being grave suspicion, against accused, then he may be discharged. The court has to consider broad probabilities of the case, total effect of evidence and documents produced before it. The court should not act as mouth piece of prosecution and it is impermissible to have roving enquiry at the stage of framing charge.

72. From the reading of the above decision, it is clear that, at the time of framing charge, the court is not expected to go deep into the probative value of materials on record. In the instant case, the reading of

the statement of CW.3, it prima-facie disclose that, the accused Nos.3 and 5 have actively participated in the act of criminal conspiracy and they knowing fully well about the illegal activities of accused No.1 have indirectly helped him in doing his illegal activities. Therefore, one thing is clear that, at this stage, there are prima-facie materials to proceed against these accused. Thus this court is of the opinion that, based upon ratio of the above decision, the accused Nos.3 and 5 are not entitled for discharge.

73. The learned counsel for the accused Nos.3 and 5 has also framed reliance on a decision reported in **2008 (14) SCC 1 in a case between Rukmini Narvekar vs. Vijaya Satardekar and others**. So far as applicability of ratio of this dictum is concerned, this court has already given its findings. The learned counsel for the accused Nos.3 and 5 has placed reliance on a decision reported in **2012 (9) SCC 512 in a case between CBI, Hyderabad vs. K.Narayana Rao** and argued that, when there are no materials to prove that, the accused was abetting or aiding original

conspirators, he is entitled for discharge. It is also argued that, offence of conspiracy cannot be deemed to have been established on mere suspicion and surmises or inference not supported by cogent and acceptable evidence. By placing reliance on the above decisions, it is argued that, accused Nos.3 and 5 are entitled for discharge. However, from the careful consideration of materials placed by the prosecution in its entirety, this court is of the opinion that, there are prima-facie materials to presume the fact that, the accused have committed the offence alleged.

74. The learned counsel for the accused No.4 and 6 has also argued that, as per the statement of CW.3, 4th accused has given a strange and sarcastic smile at her when she was coming out of the room of the 1st accused. Except this allegation, there is nothing else alleged in the entire statement of CW.3 against 4th accused. It is argued that, even if the statement of CW.3 is accepted as true for the sake of argument, which do not constitute any offence. In view of that argument, this court has perused the statement of

CW.3 which disclose that, when she was coming out of the room of the 1st accused, the 4th accused has given a sarcastic smile. The meaning of that statement would disclose that, this accused No.4 is also one of the member who has involved in the criminal conspiracy being aware of illegal activities of the 1st accused. Hence, at this stage, it cannot be said that, 4th accused is not involved in the act of criminal conspiracy.

75. It is argued that, so far as statement of CW.4 is concerned, there is no substance. However, the reading of statement of CW.4 would indicate that, accused No.4 has telephoned him and instructed him to erase all the documents available with him showing his connection with Ashram. At this stage, to disbelieve or discard the statement of CW.3 and CW.4, absolutely there are no grounds.

76. The learned counsel for the accused No.4 and 6 has placed reliance on the following decisions:

- 1)** 2009 (11) SCC 721 in a case between Chamanlal and others vs. State of Punjab and another,

- 2)** 2005 (12) SCC 631 in a case between K.R.Purushothaman vs. State of Kerala,
- 3)** 2014 (3) SCC 401 in a case between Gulam Sarbar vs. State of Bihar.
- 4)** 1999 (9) SCC 486 in a case between Ramasaran Mahto and another vs. State of Bihar,
- 5)** ILR 2015 KAR 2713 in a case between A.N.Narayanaswamy and another vs. State of Karnataka by Rural Police, Chikkaballapura, and
- 6)** 1979 (3) SCC 4 in a case between Union of India vs. Prafulla Kumar Sammal and another.

77. By placing reliance on the above decisions, it is argued that, there are no materials to proceed further against accused No.4 for the offence punishable u/s 201, 120B and 506 of IPC. The reading of the

statements of CW.3 and 4 would indicate the offence against 4th accused for the offence punishable u/s 201 and 120B of IPC and the reading of statement of CW.119 would indicate that, he has criminally intimidated him to do away his life and also threatened about dare consequences. It is settled proposition of law that, while framing charge or considering an application for discharge, the court need not required to go deep into the probative value of materials on record. Therefore, it is the duty of the court to evaluate the statements of CW.3, CW.4 and CW.119 and evaluate whether there are grounds for presuming that, the accused have committed offence. Keeping in mind that proposition of law, this court has glanced the statement of CW.3, CW.4 and CW.119 and at this stage, this court is of the opinion that, there are grounds for presuming that, the accused have committed the offence.

78. So far as allegations against accused No.6 is concerned, as per the Non Disclosure Agreement is concerned, it is the accused No.6 who has signed on behalf of Ashram of accused No.1. At this stage, there

is no explanation from the side of 6th accused as to what made her to sign the Non Disclosure Agreement at the instance of Ashram of accused No.1. The contents of Non Disclosure Agreements would clearly disclose certain sexual activities which intended to have in the Ashrama of accused No.1. The contents of Non Disclosure Agreement is in tune with the allegations made by CW.1, CW.3 and CW.119 in their statements given at the earliest point of time. Therefore, at this stage, there are sufficient materials to proceed further against the 6th accused for the offence punishable u/s 120B, 376, 377 r/w Sec.37 of IPC. Hence, this court is of the humble view that, the decision relied by the learned counsel for the accused Nos.4 and 6 is not applicable to the present case.

79. The learned counsel for accused Nos.1 and 2 has placed reliance on the decision of the Hon'ble High Court of Karnataka in W.P.No. 53631/2016 in a case between Kulashekara Chethanya Das vs. State by Subramanyanagar police station and requested the court to discharge accused Nos.1 and 2 from the accusation made against them. The Non Disclosure

Agreement seized and produced by the Investigating Officer would disclose certain sexual activities of the institution of 1st accused. The contents of the same is in corroboration with the statement of CW.1, CW.3 and CW.119. From the reading of entire material evidence on record, at this stage, this court is of the opinion that, there are prima-facie materials available in the lines of the accusation so as to proceed against the accused Nos.1 and 2. Thus this court is of the view that, the ratio of the decision referred above is not applicable to the present case as there are direct evidence as well as circumstantial evidence in the instant case.

80. In toto, at the risk of repetition, I might emphasis that, there are sufficient materials to frame charge against accused No.1 for the offence punishable u/s 417, 376, 377, 506, 201 and 120B of IPC; against accused No.2 for the offence punishable u/s 212, 120B and 506 of IPC; against accused No.3 for the offence punishable u/s 212 and 120B of IPC; against accused No.4 for the offence punishable u/s 212, 120B and 506 of IPC; against accused No.5 for the offence punishable

u/s 376, 377, 120B r/w Sec.37 of IPC and against accused No.6 for the offence punishable u/s 376, 377 r/w Sec.37 and 120B of IPC.

81. For the foregoing reasons, I am of the opinion that, there are grounds for presuming that, the accused have committed an offence triable by this court. There are no valid grounds to discharge the accused persons from the above offence. Therefore, I am constrained to answer point No.1 in the Affirmative and point No.2 in the Negative.

82. POINT No.3: In view of my findings on point Nos.1 and 2 as given supra, I proceed to pass the following:

ORDER

The application filed by the accused u/s 227 and 228 of Cr.P.C is hereby rejected.

There are materials to frame charge against accused No.1 for the offence punishable u/s 417, 376, 377, 506, 201 and 120B of IPC.

There are materials to frame charge against accused No.2 for the offence punishable u/s 212, 120B and 506 of IPC.

There are materials to frame charge against accused No.3 for the offence punishable u/s 212 and 120B of IPC.

There are materials to frame charge against accused No.4 for the offence punishable u/s 212, 120B and 506 of IPC.

There are materials to frame charge against accused No.5 for the offence punishable u/s 376, 377, 120B r/w Sec.37 of IPC.

There are materials to frame charge against accused No.6 for the offence punishable u/s 376, 377 r/w Sec.37 and 120B of IPC.

(Dictated to the Stenographer, thereof transcribed by her, then corrected, signed and pronounced by me in the open court on this the 19th day of February 2018)

(Gopal Krishna Rai T.)
III Addl. District and Sessions Judge,
Ramanagara.